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SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

Administration; Delegation of Authority, Claims Review Committees

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is amending its regulations delegating authority to its claims review committees. Claims review committees exist at the District, Regional, and Central Office level and have the authority to sell primary obligations or other evidence of an indebtedness owed the SBA for an amount less than the total amount due thereon. This rule sets forth the circumstances for and the procedures by which the various claims review committees exercise such authority.

DATES: This rule is effective June 16, 1992.

FOR FURTHER INFORMATION CONTACT: Earl Chambers, Director, Office of Portfolio Management, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416, (202) 205–6481.

SUPPLEMENTARY INFORMATION: SBA is amending its regulations setting forth the authority delegated to its various claims review committees. Claims review committees are established at the District, Regional, and Central Office level for the purpose of determining the action SBA will take with respect to debts owed the Agency. Specifically, the various claims review committees have authority, at differing amounts depending upon their organizational level, to reach settlement on primary obligations or other evidence of an indebtedness owed the SBA for an amount less than the total amount due thereon.

In each SBA District Office, a District Claims Review Committee shall be established. The membership of the Committee shall consist of three incumbents in the following order of position classification: the Liquidation Chief (or Liquidation Supervisor); Portfolio Management (PM) Chief (or PM Supervisor); District Counsel; and the Finance Division (FD) Chief (or FD Supervisor). The first person available in the above order shall serve as chairperson of the committee. The regulation provides authority by which the Regional Administrator or the District Director may alter this committee structure. Further, the regulation sets forth the degree of concurrence required of committee members in order to undertake certain action as well as the level of authority, in specific dollar amounts, which may be exercised by the District Claims Review Committee. The SBA may, however, modify the membership and level of authority of a particular District Claims Review Committee by notice in the **Federal Register**. Finally, the rule states that split decisions are reconsiderations (appeals) of actions taken by the District Office Claims Review Committee are to be taken to the Regional Claims Review Committee. A split decision for purposes of this rule means less than unanimity on those matters which require unanimity.

In each SBA Regional Office, a Regional Claims Review Committee shall be established. The membership of the Committee shall be, in the following order, the Assistant Regional Administrator (ARA) for Finance and Investment as Chairperson; Regional Counsel; and, as directed by the Regional Administrator, one of the following: the ARA for Business Development; ARA for Procurement Assistance; or ARA for Minority Small Business and Capital Ownership Development. Further, the regulation sets forth the degree of concurrence required of committee members in order to undertake certain action as well as the level of authority, in specific dollar amounts, which may be exercised by the Regional Claims Review Committee. The SBA may, however, modify the membership and level of authority of a particular Regional Claims Review Committee by notice in the **Federal Register**. Finally, the rule states that split decisions and reconsiderations (appeals) of actions taken by the Regional Office Claims Review Committee are to be taken to the Central Office Claims Review Committee.

In SBA's Central Office, a Central Office Claims Review Committee shall be established. The Central Office Claims Review Committee shall be comprised of the Director, Office of Portfolio Management as Chairperson; Associate General Counsel for Litigation; and Director, Office of Financing; or their respective designees. A designee refers to one selected to act pursuant to the delegating official's authority on a particular matter. This Committee shall have the authority, upon unanimous vote of its members, to take final action on all Agency claims above the specific dollar limits established for the Regional Claims Review Committees. On the same basis, the Central Office Claims Review Committee may approve all actions under authority of the Office of Portfolio Management and the Investment Division. The Committee shall have final authority, upon majority vote, on split decisions and appeals of matters delegated to the Regional Claims Review Committees. Finally, the Committee shall have authority, upon unanimous vote, to take final action on proposals to sell a loan or other evidence of indebtedness owed the SBA for less than the total amount due thereon. All split decisions and reconsiderations (appeals) of actions taken by the Central Office Claims Review Committee shall be determined by the Assistant Administrator for Financial Assistance.

Due to the fact that this rule governs matters of agency organization, management, and personnel and makes no substantive change to the current regulation, SBA is not required to determine if it constitutes a major rule for purposes of Executive Order 12291, to determine if it has a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), to do a Federalism Assessment pursuant to Executive Order 12612, or to determine if this rule imposes an annual recordkeeping or reporting requirement on 10 or more persons under the Paperwork Reduction Act (44 U.S.C. ch. 35).

SBA is publishing this regulation governing agency organization, practice, and procedure as a final rule without

opportunity for public comment pursuant to 5 U.S.C. 553(b)(A).

List of Subjects in 13 CFR Part 101

Administrative practice and procedure, Authority delegation, Organization and function, Government agency, Reporting and recordkeeping requirements.

For the reasons set forth above, SBA is amending part 101 of title 13, Code of Federal Regulations, as follows:

PART 101—[AMENDED]

1. The authority citation for part 101 continues to read as follows:

Authority: Secs. 4 and 5 of Pub. L. 85–536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634, as amended); sec. 308, Pub. L. 85–699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11), Pub. L. 93–386 (Aug. 23, 1974); and 5 U.S.C. 552.

2. Part V of Section 101.3–2, Delegation of authority to conduct program activities in field offices, is revised to read as follows:

§ 101.3–2 Delegation of authority to conduct program activities in field offices.

* * * * *

Part V—Claims Review Committee

Committee Authority

(1) No authority has been delegated within SBA to take final action in compromise settlement of any Agency claim except through the established Claims Review Committees. Actions taken by such Committees must be in compliance with the provisions of this regulation.

(a) *District Claims Review Committee.* A District Claims Review Committee (DCRC) shall be established in each district office. Membership shall consist of three incumbents (or those acting officially on their behalf) in the following order of position classification. The first member available in this order shall serve as chairperson: Liquidation Chief (or Liquidation Supervisor), PM Chief (or PM Supervisor), District Counsel, FD Chief (or FD Supervisor).

In offices where the ADD/F&I also serves as the direct supervisor of one of the divisions, the ADD/F&I may serve on the Committee in his or her capacity as a line supervisor.

As an alternative, the District Director may establish a Committee membership consisting of the Assistant District Director for Finance and Investment (acting as chairperson), District Counsel, and the Assistant District Director for Business Development (or those acting officially in their behalf). In the face of limited staffing availability, the Regional Administrator may authorize a different Committee structure if such structure is monitored to ensure that each member of the Committee is free to give independent opinions regarding the matters at hand.

(1) Authority is delegated to this Committee to take final approval action on:

(A) Claims not in excess of $200,000 (excluding interest), upon the majority vote of its members.

(B) Claims exceeding $200,000 but not in excess of $300,000 (excluding interest), upon the unanimous vote of its members.

(C) Claims of any size when the amount offered represents the full principal balance due (thereby forgiving only accrued interest), upon the majority vote of its members.

(D) Claims of any size involved in insolvency proceedings (bankruptcies, state and Federal receiverships, USDA Certified Mediation cases, assignments for the benefit of creditors, etc.) or which are under the administrative control of the U.S. Department of Justice, upon the unanimous vote of its members.

(E) Requests to reduce or eliminate the interest rate charged and/or the interest accrued by the Agency when authority for such action is not otherwise delegated to the line supervisor or the Central Office Claims Review Committee, upon the majority vote of its members.

(F) Private sales of collateral and collateral purchased which exceed the delegated authority of the line supervisor, upon the unanimous vote of its members.

(G) Bid proposals responding to an authorized Request for Proposals for annual auctioneering services, upon the unanimous vote of its members.

(2) Committee recommendations to sell a loan or other evidence of indebtedness owed the Agency for less than the principal amount due, or to compromise an Agency claim against a "going" business which is not involved in insolvency proceedings or under the administrative control of U.S. Department of Justice, must be forwarded through channels, with District and Regional Committee comments, to the Central Office Claims Review Committee for final action.

(3) Settlement offers on claims of any size may be declined by majority vote of its members.

(4) Split decisions and reconsiderations (appeals) of actions taken by this Committee must go to the Regional Claims Review Committee.

(5) SBA may, as it deems appropriate, increase, decrease, or set the level of authority of a particular District Claims Review Committee as well as alter the composition of committee membership by notice published in the **Federal Register**.

(b) *Regional Claims Review Committee.* A Regional Claims Review Committee (RCRC) shall be established in each regional office. Membership shall consist of the three incumbents (or those acting officially on their behalf) of the following positions: Assistant Regional Administrator for Finance and Investment (Chairperson), Regional Counsel, and, as directed by the Regional Administrator, one of the following: Assistant Regional Administrator for Business Development, or Assistant Regional Administrator for Procurement Assistance, or Assistant Regional Administrator for Minority Small Business/Capital Ownership Development.

(1) Authority is delegated to this Committee to take final approval action on:

(A) Claims not in excess of $300,000 (excluding interest), upon the majority vote of its members.

(B) Claims exceeding $300,000 but not in excess of $500,000 (excluding interest), upon the unanimous vote of its members.

(C) Split decisions and appeals of actions on matters delegated to the district level, upon the majority vote of its members.

(2) Committee recommendations to sell a loan or other evidence of indebtedness owed the Agency for less than the principal amount due, or to compromise an Agency claim against a "going" business which is not involved in insolvency proceedings or under the administrative control of the U.S. Department of Justice, must be forwarded, with Committee comments, to the Central Office Claims Review Committee for final action.

(3) Settlement offers on claims of any size may be declined by majority vote of its members.

(4) Split decisions and reconsiderations (appeals) of actions taken by this Committee must go to the Central Office Claims Review Committee for final action.

(5) SBA may, as it deems appropriate, increase, decrease, or set the level of authority of a particular Regional Claims Review Committee as well as alter the composition of committee membership by notice published in the **Federal Register**.

(c) *Central Office Claims Review Committee.* A Central Office Claims Review Committee (COCRC) shall be established in the Central Office. Membership in this Committee shall consist of the three incumbents (or those officially acting on their behalf) of the following positions: Director, Office of Portfolio Management, (Chairperson), Associate General Counsel, Litigation, Director, Office of Financing.

In the event a committee member or individual acting in such position is unable to attend a particular meeting of the committee, such committee member may designate an official to act in his/her stead.

(1) This Committee shall have the authority to take final action on:

(A) All Agency claims above the limits established for the RCRCs, upon the unanimous vote of its members. On the same basis, it also may approve actions on all programs under the purview of Portfolio Management (e.g., Lease Guarantees, Pollution Control Bond Guarantees, and 8(a) advance payments) as well as programs under the purview of the Investment Division (SBIC and SSBIC).

(B) Split decisions and appeals of actions on matters delegated to the regional level, upon the majority vote of its members.

(C)(i) Proposals to sell a loan or other evidence of indebtedness owed the Agency for less than the principal amount due, or to compromise an Agency claim against a "going" business, upon the unanimous vote of its members.

(ii) Split decisions and reconsiderations (appeals) of actions taken by this Committee may be decided by the AA/FA.

(d) A split decision for purposes of this part means less than unanimity on those matters which require unanimity.

* * * * *

Dated: May 12, 1992.

Particia Saiki,

Administrator.

[FR Doc. 92–13950 Filed 6–15–92; 8:45 am]

BILLING CODE 8025–01–M

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13 CFR Part 108

Loans to State and Local Development Companies Extension of Annual Report Filing, etc.

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule is intended to: (1) Provide more flexibility in granting an SBA Certified Development Company (503 company) a temporary expansion of its area of operations; (2) delete the requirement that names and addresses of individuals who are members of the 503 companies, but not members of the Boards of Directors of 503 companies, must be published as part of the certification process; (3) allow a 60-day extension on the deadline for the filing of a 503 company's annual report if the company is awaiting the report of its public accountant; (4) amend the 503 company annual report requirement to permit the use of unaudited financial statements if prepared according to Generally Accepted Accounting Principles; (5) add a provision that interim financing for a project to be financed by a 503 company cannot be derived from funds obtained through other SBA programs; (6) clarify that a small concern (or its associate) is allowed to pay for goods or services and receiving subsequent reimbursement from an interim lender; (7) delete a redundant requirement that the maximum private sector financing must be obtained before a 503 company may participate in a project; (8) allow SBA flexibility to establish the level of borrower injection required in connection with a development company financing; (9) change the circumstances under which SBA would disburse funds to cover borrower's tax liabilities on 503 loans; and (10) delete the specific amount of the reserve deposit and the funding fee and provide for their publication in the **Federal Register** in the event they are changed.

EFFECTIVE DATE: June 16, 1992.

FOR FURTHER INFORMATION CONTACT: LeAnn M. Oliver, Deputy Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 3rd Street, SW., suite 8300, Washington, DC 20416. Telephone (202) 205–6485.

SUPPLEMENTARY INFORMATION: On January 15, 1992 (at 57 FR 1688) a proposed regulation including the changes listed in the summary above was published. Two (2) comments were received and their content was taken into consideration in developing this final rule. SBA is hereby adopting the proposed regulation with modifications indicated below as final.

By this final regulation, 13 CFR 108.503–1(c)(1)(iii) is amended to allow SBA's Central Office to extend, beyond 1 year, a temporary expansion of a development company's geographical service area when the area of expansion is underserved. Such expansions are currently available for up to 1 year. The proposed rule contained a limit of one additional year. However, SBA received information which suggests that more flexibility would serve the best interests of the program. Therefore, the language published in this final rule does not limit the number of extensions available but does provide for approval of additional expansion by the program office. This issue has arisen because contractions in the number of development companies have resulted in more areas of the country having no primary coverage. This rule is promulgated in order to assure that the program is available to all businesses, regardless of their geographic location.

13 CFR 108.503–2(b) is amended to delete the present requirement that the names and addresses of members be published as part of the public notice that a development company has applied to be certified in the 503 program. Many 503 companies have extensive memberships reflecting broad support from the community. The Board of Directors is representative of the membership as a whole and each board member's name and address must be published under the existing and proposed regulations. The Agency has decided that the additional expense of publishing long lists of member names cannot be justified as it does not provide significant information to the public.

Requirements regarding annual report filings for 503 companies are changed in two ways under this rule: (1) 13 CFR 108.503–3 would allow a 60-day extension for the filing of a 503 company's annual report if the company is awaiting the report of its public accountants. (2) The regulation would also provide that financial statements prepared using Generally Accepted Accounting Principles (GAAP) are required. The two comments received address the issue of the 60-day extension of the filing deadline. Both comments were highly supportive of this change.

Restrictions contained in the present regulations regarding interim financing are clarified and strengthened. 13 CFR 108.503–7(b)(1) will now provide that interim financing for a development company funded project cannot be derived from funds obtained through other SBA programs. This change clarifies SBA policy that the Agency not be exposed to construction financing risks. Amended § 108.503–7(b)(3) will now clarify that a small concern (or its associate) will be allowed to pay for goods or services related to a project and receive subsequent reimbursement from an interim lender. A borrower may make expenditures in the normal course of business (e.g., deposits to hold orders, etc.) that are legitimate project costs commonly reimbursed as part of the interim financing.

The present regulation governing third party financing is amended to delete a requirement that the maximum private sector financing must be obtained. 13 CFR 108.503–8(a)(3) would be amended to decrease the potential for misinterpretation. In some projects financed partially by 503 companies it is desirable for the small concern to make an injection that is more than the minimum required by the regulation. In such situations the private sector financing might be equal to the injection and development company's portion of the total project financing. The change in the regulatory language makes it clear that those situations can be accommodated.

13 CFR 108.503–10 as amended is intended to give SBA the flexibility to make sensible arrangements related to 503 Company injections, repayment terms, and requirements for subordination to SBA.

This final rule also amends the present regulatory provision related to borrowers' from development companies receipt of funds from their Escrow/Reserve Account to meet tax liabilities. The rule will now require that borrowers request such funds within 60 days of the date they were required to file their returns. Lastly, this regulation deletes regulatory provisions which govern the specific percentages of the reserve deposit and the funding fee required and provides for SBA publication in the **Federal Register** of changes in required amounts. Presently, each borrower signs individual documents that delineate these amounts in conjunction with development company financing. Given the need to act in a timely manner when responding

to changes in program costs, the Agency has determined that a more efficient method of notification of specific percentages is the publication of a notice in the **Federal Register.**

Compliance With Executive Orders 12291, 12612, and 12778 the Regulatory Flexibility Act and the Paperwork Reduction Act

SBA has determined that this final rule does not constitute a major rule for the purposes of Executive Order 12291, because the annual effect of this rule on the national economy will not attain $100 million. In this regard, the amendments to 13 CFR 108.503–3, 108.503–7(b)(1), 108.503–7(b)(3), 108.503–8(a)(3), 108.503–10, 108.503–11 and 108.504(e) are policy or procedural in nature and are therefore revenue neutral. The amendment to § 108.503–1(c)(1)(iii) is unlikely to result in more than 10 additional loans being funded. Since the average loan size is $285,000, the maximum effect would be an additional $2.8 million in loan approvals. The amendment to § 108.503–2(b) will result in lowered publication costs for 503 company applicants. Since there are approximately 15 new applications and 24 applications for expansion of area annually, we estimate that the savings to the industry will be about $44,000 per year.

This rule will not result in a major increase in costs or prices to consumers, individual industries, Federal, state and local government agencies or geographic regions, and will not have adverse effects on competition, employment, investment productivity, or innovation.

SBA certifies that this final rule does not warrant the preparation of a Federalism Assessment in accordance with Executive Order 12612.

For the purpose of compliance with the Regulatory Flexibility Act, SBA certifies that this rule does not have a significant economic impact on a substantial number of small entities for the same reasons that this rule does not constitute a major rule under Executive Order 12291 analysis above.

For purposes of Executive Order 12778, SBA certifies this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

For purposes of the Paperwork Reduction Act, Public Law 98–115, 44 U.S.C. Ch. 35, SBA certifies that this rule does not impose new reporting or recordkeeping requirements.

List of Subjects in 13 CFR Part 108

Loan programs/business, Small businesses.

For the reasons set out in the preamble, part 108 of title 13, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 108 continues to read as follows:

Authority: 15 U.S.C. 687(c), 695, 696, 697a, 697b, 697c.

2. Section 108.503–1 is amended by revising paragraph (c)(1)(iii) to read as follows:

§ 108.503–1 Eligibility requirements for 502 companies.

* * * * *

(c) Area of Operations. * * *

(1) * * *

(iii) With SBA prior approval of each loan, temporarily expand its area of operations to include an area underserved by the 503 program. Such temporary expansion may be granted for up to one year, provided, however, that the Director, ORA & ED may extend such expansion for additional periods. A 503 company granted such temporary expansion shall be exempt from the requirements of paragraphs (b)(2), (c)(4) and (d) of § 108.503–1 of this part, as they would apply to the area of temporary expansion.

* * * * *

3. Section 108.503–2 is amended by revising paragraph (b) to read as follows:

§ 108.503–2 Certification.

* * * * *

(b) *Public notice.* The proposed 503 company shall publish a notice in a newspaper of general circulation in the city, county or counties of the proposed area of operations, and shall furnish a certified copy to SBA within 10 days of the date of publication. Such notice shall include the name and location of the proposed company, its purpose and area of operations, and the names and addresses of its officers and directors. The public shall be afforded reasonable opportunity for the submission of written comments to the local SBA office.

* * * * *

4. Section 108.503–3 is amended by adding a sentence at the end of paragraph (f) introductory text, and by revising paragraph (f)(1) to read as follows:

§ 108.503–3 Operational requirements for 503 companies.

* * * * *

(f) *Reporting requirements.* * * * The SBA may grant an extension of up to 60 days if the 503 Company is awaiting the final report of its public accountant as set forth in the following paragraph.

(1) The Financial statements contained in the annual report shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP). If opinion audits or reviews are otherwise required by the 503 company, copies of the results shall be submitted.

* * * * *

5. Section 108.503–7 is amended by redesignating paragraphs (b)(1) through (b)(4) as paragraphs (b)(2) through (b)(5), adding a new paragraph (b)(1), and revising the newly redesignated (b)(3) to read as follows:

§ 108.503–7 Interim financing.

* * * * *

(b) *Source of interim financing.*

* * * * *

(1) Such financing is not derived, directly or indirectly, from any SBA program.

* * * * *

(3) The interim lender is not associated with the small concern. (See definition in § 108.2 of this part.) This does not disallow the small concern or its associates from paying for goods or services for subsequent reimbursement from an interim lender. See also § 108.503–5(d).

* * * * *

§ 108.503–8 [Amended]

6. Section 108.503–8 is amended by removing the last sentence of paragraph (a)(3).

7. Section 108.503–10(a) is amended by revising the last sentence to read as follows:

§ 108.503–10 503 Company injection.

* * * * *

(a) * * * Such injection shall be subordinate to the 503 Debenture and shall not be repaid at a faster rate than the 503 Loan unless SBA provides its prior written consent to the waiver of one or both of these conditions on a case-by-case basis.

* * * * *

8. Section 108.503–11(b)(2) is amended by revising the fourth sentence to read as follows:

§ 108.503–11 Central fiscal agent.

* * * * *

(b) * * *

(2) * * * A small concern may make this request through its 503 company to the appropriate SBA field office within the 60 days of the filing date. * * *

* * * * *

§ 108.504 [Amended]

9. Section 108.504(e) is amended by removing the phrases "of one half of one percent (0.5%)," and "of one quarter of

one percent (0.25%) of the net debenture proceeds, see definitions in § 108.2 of this part" and adding in place of the latter the phrase "to be published from time to time in the **Federal Register**".

Catalog of Federal Domestic Assistance 59.036 Certified Development Company Loans (503 Loans); 59.041 Certified Development Company Loans (504 Loans).

Dated: April 10, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92-13949 Filed 6-15-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 73

[Airspace Docket No. 90-ASW-1]

Establishment of Restricted Area R-6320 Matagorda, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Restricted Area R-6320 Matagorda, TX. The United States Customs Service will install an aerostat-borne radar system in R-6320. The aerostat-borne radar system will provide surveillance to detect suspected illegal drug transportation into the United States. The aerostat balloon will fly up to 15,000 feet mean sea level (MSL). This action supports the drug interdiction program. In addition, the Continental Control Area is amended to reflect R-6320.

EFFECTIVE DATE: 0901 u.t.c., August 20, 1992.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On March 7, 1990, the FAA proposed to amend parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) to establish Restricted Area R-6320 Matagorda, TX, and to amend the Continental Control Area to reflect R-6320 (55 FR 8151). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, and a minor change to the location coordinates from "lat. 28°42'34"N." to "lat. 28°42'37"N." these amendments are the same as those proposed in the notice. Section 73.63 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.8 effective November 1, 1991. The airspace of certain restricted areas included in the Continental Control Area is published in Section 71.151 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1.

The Rule

These amendments to parts 71 and 73 of the Federal Aviation Regulations establish Restricted Area R-6320 Matagorda, TX. The United States Customs Service will install an aerostat-borne radar system in R-6320. The restricted area will provide airspace for the operation of a tethered aerostat-borne radar system. This system will provide surveillance of airspace to detect low-altitude aircraft attempting to penetrate U.S. airspace undetected. The restricted area encompasses a 3-statute-mile radius of a geographical point, lat. 28°42'37"N., long. 95°57'26"W., from the surface up to and including 15,000 feet MSL. The system will increase the probability of the interception and interdiction of suspect aircraft and provide low altitude radar coverage for the Customs Service. Also, the Continental Control Area is amended to reflect R-6320.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Analysis

In compliance with the National Environmental Policy Act of 1969 (NEPA), the U.S. Customs Service evaluated the environmental impacts resulting from the establishment of Restricted Area R-6320. On the basis of the Environmental Assessment developed by the U.S. Customs Service, which has been placed in the public docket, the FAA finds that there will be no significant impact on the environment as a result of this action.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Incorporation by reference. Restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 71 and 73 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.151 Restricted Areas included.

* * * * *

R-6320 Matagorda, TX [New]

* * * * *

PART 73—[AMENDED]

3. The authority citation for 14 CFR part 73 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.63 [Amended]

4. § 73.63 is amended as follows:

R-6320 Matagorda, TX [New]

Boundaries. That airspace within a 3-mile circle centered at lat. 28°42'37"N., long. 95°57'26"W.

Designated altitudes. Surface up to and including 15,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Houston ARTCC.

Using agency: United States Customs Service.

Issued in Washington, DC, on June 5, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92-14072 Filed 6-15-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 26889; Amdt. No. 1495]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8360-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on June 5, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 u.t.c. on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs;

§ 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

*** * * Effective August 20, 1992**

Medera, CA—Madera Muni, VOR RWY 30, Amdt. 8
Van Nuys, CA—Van Nuys, ILS RWY 16R, Amdt. 5
Bozeman, MT—Gallatin Field, VOR RWY 12, Amdt. 13
Bozeman, MT—Gallatin Field, VOR/DME RWY 12, Amdt. 2
Bozeman, MT—Gallatin Field, NDB RWY 12, Amdt. 5
Bozeman, MT—Gallatin Field, ILS RWY 12, Amdt. 6
Dunkirk, NY—Chautauqua County/Dunkirk, VOR RWY 6, Amdt. 1
Dunkirk, NY—Chautauqua County/Dunkirk, VOR RWY 24, Amdt. 6
Graham, TX—Graham Muni, NDB RWY 21, Amdt. 1

*** * * Effective July 23, 1992**

Aitkin, MN—Aitkin Muni, NDB RWY 16, Amdt. 3
Chapel Hill, NC—Horace Williams, VOR/DME RNAV RWY 9, Orig.
Columbus, OH—Bolton Field, ILS RWY 4, Amdt. 4

*** * * Effective June 25, 1992**

Santa Monica, CA—Santa Monica Muni, LDA/DME RWY 21, Orig.
Brookings, SD—Brookings Muni, VOR RWY 30, Amdt. 9
Brookings, SD—Brookings Muni, ILS/DME RWY 30, Orig.
Salt Lake City, UT—Salt Lake City Intl, ILS/DME RWY 16R, Amdt. 5

[FR Doc. 92-14071 Filed 6-15-92; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771 and 778

[Docket No. 920647-2147]

Expansion of Foreign Policy Controls; Missile Technology Destinations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: The Department of Commerce is amending the Export Administration Regulations (EAR) in support of U.S. non-proliferation policies. This interim rule clarifies which destinations require a validated license when an exporter knows that the items will be used in the design, development, production or use of missiles, and adds a list of missile technology projects, countries and regions to Supplement No. 6 to part 778 of the EAR.

DATES: *Effective date:* This rule is effective June 16, 1992. *Comment date:* Comments must be received by July 16, 1992.

ADDRESSES: Written comments (six copies) should be sent to Nancy Crowe, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, room 4054, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Nancy Crowe, Ofice of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-4819.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 1991, the Bureau of Export Administration (BXA) published a rule in the **Federal Register** (56 FR 10756) that proposed to expand foreign policy controls in several ways in support of U.S. non-proliferation policies. The changes proposed by that rule addressed some of the measures called for in President Bush's December 13, 1990, decision on the Enhanced Proliferation Control Initiative (EPCI). On August 15, 1991, BXA published an interim rule in the **Federal Register** implementing many of the measures set forth in the March 13 proposed rule. The August 15 interim rule (56 FR 40464) requires a validated license when an exporter knows that the item proposed for export will be used for the design, development, production or use of missiles in certain destinations. It also created a new Supplement No. 6 to part 778 to list such destinations. This rule adds that list to Supplement No. 6 to part 778, requiring a validated license for exports to certain regions, countries, and projects. This list has been agreed to in consultation with the Department of State and other agencies of the U.S. Government.

One of the countries listed in Supplement No. 6 to part 778 is Brazil. It is of particular importance to note that although U.S. foreign policy does not permit exports in support of any missile or space launch vehicle (SLV) program of Brazil, several positive developments in the field of non-proliferation have taken place, reducing the possibility of proliferation from this country. Brazil, together with Argentina and Chile, signed the Mendoza Declaration in September 1991, declaring their intent to become original contracting parties to the Chemical Weapons Convention, and agreeing to ban these weapons within their territories and to prohibit exports of chemical weapons as an interim measure. In December 1991, Brazil signed a full-scope nuclear safeguards agreement with the International Atomic Energy Agency (IAEA) that requires IAEA safeguards on its nuclear exports. It has also expressed interest in the Missile Technology Control Regime (MTCR), and a team representing the MTCR visited Brazil in April 1992. In addition, Brazil recently announced its intent to transfer all space-related activities, including its SLV project, to a new civilian space agency. A Brazilian government interministerial commission recently completed draft legislation establishing a legal framework for a domestic export control regime, with legislative action expected in 1992.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005, 0694-0007, and 0694-0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is being issued as an interim rule and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close July 16, 1992. The Department will consider all comments

received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377–5653.

List of Subjects

15 CFR Part 771

Exports, Reporting and recordkeeping requirements.

15 CFR Part 778

Exports, Nuclear energy, Reporting and recordkeeping requirements.

Accordingly, parts 771 and 778 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR part 771 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

2. The authority citation for 15 CFR part 778 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

PART 771—[AMENDED]

3. Section 771.2 is amended by revising paragraph (c)(13)(i)(B) to read as follows:

§ 771.2 General provisions.

* * * * *

(c) * * *

(13) * * *

(i) * * *

(B) Will be used in the design, development, production, or use of missiles in or by a country listed in Supplement No. 6 to part 778 of this subchapter; or

* * * * *

PART 778—[AMENDED]

4. Section 778.7 is amended by revising paragraph (c)(1)(ii) to read as follows:

§ 778.7 Equipment and related technical data used in the design, development, production, or use of missiles.

* * * * *

(c) * * *

(1) * * *

(ii) Will be used in the design, development, production or use of missiles in or by a country listed in Supplement No. 6 to this part 778, whether or not that use involves a listed project.

* * * * *

5. Section 778.9 is amended by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 778.9 Activities of U.S. persons.

(a) * * *

(1) Will be used in the design, development, production, or use of missiles in or by a country listed in Supplement No. 6 to this part 778; or

* * * * *

(b) * * *

(1) Perform any contract, service or employment that the U.S. person knows will assist in the design, development, production or use of missiles in or by a country listed in Supplement No. 6 to this part 778;

* * * * *

6. Supplement No. 6 to Part 778 is revised to read as follows:

SUPPLEMENT NO. 6—MISSILE TECHNOLOGY DESTINATIONS

Location	Project
Brazil	Sonda III, Sonda IV, SS-300, SS-1000, MB/EE Series Missile, VLS Space Launch Vehicle.
China	M Series Missiles, CSS-2.
India	Agni, Prithvi, SLV-3 Satellite Launch Vehicle, Augmented Satellite Launch Vehicle (ASLV), Polar Satellite Launch Vehicle (PSLV), Geostationary Satellite Launch Vehicle (GSLV).
Iran	Surface-to-Surface Missile Project, Scud Development Project.
Middle East:[1]	
North Korea	No Dong I, Scud Development Project.
Pakistan	Hatf Series Missiles.
South Africa	Surface-to-Surface Missile Project, Space Launch Vehicle.

[1] See § 770.2 of this subchapter for a list of countries covered by this region.

Dated: June 12, 1992.

James M. LeMunyon,

Acting Assistant Secretary for Export Administration.

[FR Doc. 92–14163 Filed 6–15–92; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 92-57]

Personal Information on Checks Submitted to Customs

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that certain identifying information must be recorded on personal checks over $25 presented to Customs in payment of duties, taxes, and other charges due on noncommercial importations. The identifying information consists of the payor's name, home and business telephone number with area code, and date of birth, as well as one of the following: The payor's social security number, current passport number, or current driver's license number and issuing state. The amendment enhances the ability of Customs to pursue collection efforts on debts arising from dishonored personal checks.

EFFECTIVE DATE: July 16, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Hamilton, Revenue Branch, National Finance Center (317-298-1308).

SUPPLEMENTARY INFORMATION:

Background

In an effort to facilitate collection on debts arising from dishonored personal checks presented to Customs in payment of duties, taxes, and other charges on noncommercial importations at piers, terminals, bridges, airports and other similar places, on July 11, 1991, Customs published a notice in the Federal Register (56 FR 31576) proposing to amend the Customs Regulations to set forth specific identifying information regarding the payor that must be recorded on personal checks over $25 in amount submitted to Customs to cover such payments. Specifically, the notice proposed an amendment to § 24.1(b) of the Customs Regulations (19 CFR 24.1(b)) to require that the following be recorded on such checks: (1) The payor's name, home and business telephone number including area code, and date of birth, and (2) the payor's social security number or current passport number or current driver's license number including issuing state.

The notice solicited comments from the public regarding the proposal, and the public comment period closed on September 9, 1991. No comments were submitted in response to the notice. In addition, the notice stated that, in accordance with the requirements of section 7(b) of the Privacy Act of 1974 (5 U.S.C. 552a Note) regarding any request for disclosure of a social security number by an individual, Customs would have in place a procedure to inform each payor that the disclosure is voluntary, by what statutory or other authority the number is solicited, and what uses will be made of it.

Based on the above, Customs has determined that the proposed regulatory amendment should be adopted as a final rule. The regulatory text, as set forth below, is identical to the proposed text except for certain non-substantive changes of a purely editorial nature intended primarily to improve the clarity of the text.

Executive Order 12291 and Regulatory Flexibility Act

Because this matter relates to agency organization and management, it is not subject to either Executive Order 12291 or the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Drafting Information

The principal author of this document was Francis W. Foote, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Imports, Taxes.

Amendment to the Regulations

Based on the above, part 24, Customs Regulations (19 CFR part 24), is amended as set forth below:

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58a–58c, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624, 31 U.S.C. 9701, unless otherwise noted.

Section 24.1 also issued under 19 U.S.C. 197, 198, 1648.

* * * * *

2. The introductory text of § 24.1(b) is revised to read as follows:

§ 24.1 Collection of Customs duties, taxes, and other charges.

* * * * *

(b) At piers, terminals, bridges, airports and other similar places, in addition to the methods of payment prescribed in paragraph (a) of this section, a personal check drawn on a national or state bank or trust company of the United States shall be accepted by Customs inspectors and other Customs employees authorized to receive Customs collections in payment of duties, taxes, and other charges on noncommercial importations, subject to the identification requirements of paragraph (a)(4) of this section and this paragraph. Where the amount of the check is over $25, the Customs cashier or other employee authorized to receive Customs collections shall ensure that the payor's name, home and business telephone number including area code, and date of birth are recorded on the instrument. In addition, one of the following shall be recorded on the instrument: The payor's social security number, current passport number, or current driver's license number including issuing state. A personal check received under this paragraph and a United States Government check, traveler's check, or money order received under paragraph (a) of this section by such Customs inspectors and other Customs employees shall also be subject to the following conditions:

* * * * *

Michael H. Lane,

Acting Commissioner of Customs.

Approved: June 2, 1992.

Dennis M. O'Connell,

Acting Assistant Secretary of the Treasury.

[FR Doc. 92-14068 Filed 6-15-92; 8:45 am]

BILLING CODE 4820-02-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 83

RIN 3067-AB67

Increase in Rates Charged for Commercial Crime Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Crime Insurance Program (FCIP) rate tables which apply to commercial properties located in eligible jurisdictions that are set forth in § 83.25(e). The rule is necessary to affect heavy losses under commercial coverge and the higher-than-average administrative expenses of the program. The intent is to assure the financial and administrative viability of the program.

EFFECTIVE DATE: October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Kimber A. Wald, Federal Insurance Administration, Federal Emergency

Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3440.

SUPPLEMENTARY INFORMATION: A proposed rule was published at 56 FR 58019 on November 15, 1991. It was later amended in a notice published at 56 FR 66824 on December 26, 1991. The proposed rule was necessary to offset heavy losses under commercial coverage and the higher-than-averge administrative expenses associated with operating a single-line residual market program. As a result, a fifteen percent increase in the commercial insurance rate tables was proposed.

No written comments were received during the comment period.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act.

EO 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

EO 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 83

Crime insurance.

Accordingly, 44 CFR part 83 is amended as follows:

PART 83—[AMENDED]

1. The authority citation for part 83 continues to read as follows:

Authority: 12 U.S.C. 1749bbb. *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR 1979 Comp., p. 376.

2. § 83.25(e) is revised as follows:

§ 83.25 Commercial crime insurance rates.

* * * * *

(e) The following tables shall be used to determine rates for commercial risks:

FEDERAL CRIME INSURANCE PROGRAM, COMMERCIAL CRIME INSURANCE RATES, 1991

Amount of insurance	Gross receipts											
	Less than $100,000		$100,000–$199,999		$200,000–$299,999		$300,000–$499,999		$500,000–$999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
Annual Premiums, Class 1												
1,000	90	137	135	206	135	206	180	274	225	343	360	548
2,000	165	245	247	368	247	368	329	490	412	613	659	981
3,000	239	353	359	530	359	530	479	707	599	884	958	1414
4,000	309	452	463	678	463	678	617	904	772	1130	1235	1808
5,000	351	511	527	767	527	767	702	1022	878	1278	1404	2044
6,000	383	562	575	843	575	843	767	1123	959	1404	1534	2247
7,000	403	596	605	894	605	894	806	1192	1008	1490	1613	2384
8,000	421	633	632	949	632	949	842	1266	1053	1582	1685	2532
9,000	428	644	643	966	643	966	857	1288	1071	1610	1714	2576
10,000	441	669	661	1003	661	1003	882	1337	1102	1671	1764	2674
11,000	474	729	711	1093	711	1093	949	1458	1186	1822	1897	2915
12,000	500	778	749	1167	749	1167	999	1556	1249	1945	1998	3113
13,000	511	801	767	1202	767	1202	1022	1603	1278	2004	2045	3206
14,000	518	814	776	1221	776	1221	1035	1628	1294	2034	2070	3255
15,000	525	826	787	1239	787	1239	1049	1652	1312	2065	2099	3304
Annual Premiums, Class 2												
1,000	108	164	162	247	162	247	216	329	270	411	432	658
2,000	198	294	296	441	296	441	395	589	494	736	791	1177
3,000	287	424	431	636	431	636	575	848	718	1060	1149	1697
4,000	370	543	556	814	556	814	741	1085	926	1356	1482	2170
5,000	421	613	632	920	632	920	842	1226	1053	1533	1685	2453
6,000	460	674	690	1011	690	1011	920	1348	1150	1685	1840	2696
7,000	484	715	726	1073	726	1073	968	1430	1210	1788	1935	2861
8,000	505	760	758	1139	758	1139	1011	1519	1264	1899	2022	3038
9,000	514	773	771	1159	771	1159	1028	1545	1285	1932	2056	3091
10,000	529	802	794	1203	794	1203	1058	1605	1323	2006	2117	3209
11,000	569	875	854	1312	854	312	1138	1749	1423	2187	2277	3498
12,000	599	934	899	1401	899	1401	1199	1868	1499	2334	2398	3735
13,000	613	962	920	1443	920	1443	1227	1923	1534	2404	2454	3847
14,000	621	977	932	1465	932	1465	1242	1953	1553	2441	2484	3906
15,000	630	991	944	1487	944	1487	1259	1983	1574	2478	2519	3965
Annual Premiums, Class 3												
1,000	121	171	182	257	182	257	243	343	304	428	486	685
2,000	222	307	334	460	334	460	445	613	556	766	889	1226
3,000	323	442	485	663	485	663	646	884	808	1105	1293	1767
4,000	417	565	625	848	625	848	833	1130	1042	1413	1667	2261
5,000	474	639	711	958	711	958	948	1278	1185	1597	1895	2555
6,000	518	702	776	1053	776	1053	1035	1404	1294	1755	2070	2809

FEDERAL CRIME INSURANCE PROGRAM, COMMERCIAL CRIME INSURANCE RATES, 1991—Continued

Amount of insurance	Gross receipts											
	Less than $100,000		$100,000-$199,999		$200,000-$299,999		$300,000-$499,999		$500,000-$999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
7,000	544	745	816	1117	816	1117	1089	1490	1361	1862	2177	2980
8,000	569	791	853	1187	853	1187	1137	1582	1422	1978	2274	3165
9,000	578	805	868	1207	868	1207	1157	1610	1446	2012	2313	3220
10,000	595	836	893	1254	893	1254	1191	1671	1488	2089	2381	3343
11,000	640	911	960	1367	960	1367	1281	1822	1601	2278	2561	3644
12,000	674	973	1011	1459	1011	1459	1349	1945	1686	2432	2697	3891
13,000	690	1002	1035	1503	1035	1503	1380	2004	1725	2505	2760	4007
14,000	699	1017	1048	1526	1048	1526	1397	2034	1747	2543	2794	4069
15,000	708	1033	1063	1549	1063	1549	1417	2065	1771	2582	2833	4131
Annual Premiums, Class 4												
1,000	131	178	196	267	196	267	261	356	326	445	522	712
2,000	239	319	358	478	358	478	478	638	597	797	955	1275
3,000	347	459	521	689	521	689	694	919	868	1149	1389	1838
4,000	448	588	671	882	671	882	895	1175	1119	1469	1790	2351
5,000	509	664	763	996	763	996	1018	1329	1272	1661	2036	2657
6,000	556	730	834	1095	834	1095	1112	1460	1390	1826	2224	2921
7,000	585	775	877	1162	877	1162	1169	1549	1462	1937	2339	3099
8,000	611	823	916	1234	916	1234	1221	1646	1527	2057	2443	3291
9,000	621	837	932	1256	932	1256	1242	1674	1553	2093	2485	3348
10,000	639	869	959	1304	959	1304	1279	1738	1599	2173	2558	3477
11,000	688	947	1032	1421	1032	1421	1375	1895	1719	2369	2751	3790
12,000	724	1012	1086	1517	1086	1517	1449	2023	1811	2529	2897	4046
13,000	741	1042	1112	1563	1112	1563	1482	2084	1853	2605	2965	4168
14,000	750	1058	1126	1587	1126	1587	1501	2116	1876	2645	3002	4232
15,000	761	1074	1141	1611	1141	1611	1522	2148	1902	2685	3043	4296
Annual Premiums, Class 5												
1,000	135	185	203	277	203	277	270	370	338	462	540	740
2,000	247	331	371	497	371	497	494	662	618	828	988	1324
3,000	359	477	539	716	539	716	718	954	898	1193	1436	1909
4,000	463	610	695	916	695	916	926	1221	1158	1526	1852	2441
5,000	527	690	790	1035	790	1035	1053	1380	1316	1725	2106	2759
6,000	575	758	863	1137	863	1137	1150	1517	1438	1896	2300	3033
7,000	605	805	907	1207	907	1207	1210	1609	1512	2011	2419	3218
8,000	632	854	948	1282	948	1282	1264	1709	1580	2136	2527	3418
9,000	643	869	964	1304	964	1304	1285	1739	1607	2173	2570	3477
10,000	662	903	992	1354	992	1354	1323	1805	1654	2256	2646	3610
11,000	711	984	1067	1476	1067	1476	1423	1968	1779	2460	2846	3936
12,000	749	1051	1124	1576	1124	1576	1499	2101	1873	2626	2997	4202
13,000	767	1082	1150	1623	1150	1623	1534	2164	1917	2705	3067	4328
14,000	776	1099	1164	1648	1164	1648	1553	2197	1941	2747	3105	4394
15,000	787	1115	1181	1673	1181	1673	1574	2230	1968	2788	3148	4461
Annual Premiums, Class 6												
1,000	177	190	266	285	266	285	354	379	443	474	709	759
2,000	324	340	486	509	486	509	649	679	811	849	1297	1359
3,000	471	490	707	734	707	734	943	979	1178	1224	1886	1958
4,000	608	626	912	939	912	939	1216	1252	1520	1565	2431	2505
5,000	691	708	1037	1062	1037	1062	1382	1415	1728	1769	2764	2831
6,000	755	778	1132	1167	1132	1167	1510	1556	1887	1945	3020	3112
7,000	794	825	1191	1238	1191	1238	1588	1651	1985	2063	3176	3302
8,000	829	877	1244	1315	1244	1315	1659	1753	2073	2192	3317	3506
9,000	844	892	1265	1338	1265	1338	1687	1784	2109	2230	3374	3567
10,000	868	926	1302	1389	1302	1389	1737	1852	2171	2315	3473	3704
11,000	934	1009	1401	1514	1401	1514	1868	2019	2335	2524	3736	4038
12,000	984	1078	1475	1617	1475	1617	1967	2156	2459	2694	3934	4311
13,000	1007	1110	1510	1665	1510	1665	2013	2220	2516	2775	4026	4440
14,000	1019	1127	1528	1691	1528	1691	2038	2254	2547	2818	4076	4508
15,000	1033	1144	1550	1716	1550	1716	2066	2288	2583	2860	4133	4577

Option 1: Burglary only.
Option 2: Robbery only.
Option 3: A combination of coverages under options 1 and 2 in uniform or varying amounts. The premium for option 3 is the sum of the rates for amounts of coverage selected under options 1 and 2.
Discounts on these rates are afforded for businesses with alarm systems/safes. A discount of 10% is given for policies with option 3.

Dated: June 3, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-14033 Filed 6-15-92; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[PR Docket No. 91-111, FCC No. 92-230]

Miscellaneous Amendments to Part 80 of the Rules Governing Maritime Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission amends Part 80 of the Commission's Rules to clarify the maritime frequency tolerance rules, to change the certification requirements for field strength measurements on radiotelegraph ship installations, and to update and correct various Part 80 rule sections. This rule making updates and corrects certain outdated or contradictory rule sections.

EFFECTIVE DATE: July 16, 1992.

FOR FURTHER INFORMATION CONTACT: Susan Jones, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION: This rule making is a result of petitions filed by Mackay Communications, Exxon Communications Company, and the United States Coast Guard. Pursuant to the suggestions made within the petitions, this rule making will simplify the Maritime Services rules to allow field strength measurements for shipboard manual Morse code installations to be conducted by qualified employees of the ship station licensees. In addition, amendments made here will update and correct inconsistencies in the frequency tolerance table applicable to ship station transmitters. And finally, editorial and minor changes have been made with this rule making to update and clarify the Commission's rules. Adequate notice was given by a Notice of Proposed Rule Making, (Notice), 56 FR 22145, May 14, 1991 6 FCC Rcd 2478 (1991), with no negative comments filed in response.

List of Subjects in 47 CFR Part 80

Marine safety, Radio, Vessels, Communications equipment.

Authority: Authority for issuance of this final rule is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), part 80 of the Commission's Rules, 47 CFR Part 80, is amended as set forth below.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Final Rule

Part 80 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

§ 80.5 [Amended]

2. Section 80.5 is amended by removing "Future" from the entry for *Future global maritime distress and safety system (FGMDSS)* to read *Global maritime distress and safety system (GMDSS).*

3. Section 80.23 is amended by adding a sentence at the end of the introductory paragraph, removing paragraph (c) and redesignating paragraphs (d) and (e) as (c) and (d) to read as follows:

§ 80.23 Filing of applications.

* * * Applications requiring fees as set forth in Part 1, Subpart G of this Chapter must be filed with the Federal Communications Commission in accordance with § 1.1102 of the Rules.

* * * * *

4. Section 80.207(d) is amended by revising footnote 2 to read:

§ 80.207 Classes of emission.

* * * * *

(d) * * *

[2] Frequencies used in the automated multi-station system. See § 80.385(c).

* * * * *

5. Section 80.209 is amended by revising paragraph (a) and the table following paragraph (a) to read as follows:

§ 80.209 Transmitter frequency tolerances.

(a) The frequency tolerance requirements applicable to transmitters in the maritime services are shown in the following table. Tolerances are given as parts in 10^6 unless shown in Hz.

Frequency bands and categories of stations	Tolerances[1]
(1) Band 100-525 kHz:	
(i) Coast stations:	
For single sideband emissions	20 Hz.
For transmitters with narrow-band direct printing and data emissions.	10 Hz.[2]
For transmitters with digital selective calling emissions.	10 Hz.
For all other emissions	100
(ii) Ship stations:	
For transmitters with single sideband emissions type accepted or type approved before November 30, 1977.	20 Hz
For transmitters with other emissions type accepted or type approved before November 30, 1977.	1000.[5]
For transmitters with narrow-band direct printing and data emissions.	10 Hz.[2]
For transmitters with digital selective calling emissions.	10 Hz.[3]
For all other transmitters type accepted or type approved after November 29, 1977.	20 Hz.
(iii) Ship stations for emergency only:	
For transmitters type approved before November 30, 1977.	3000.[5]
For all transmitters type accepted or type approved after November 29, 1977.	20 Hz.
(iv) Survival craft stations:	
For transmitters type approved before November 30, 1977.	5000.[5]
For transmitters type approved or type accepted after November 29, 1977.	20 Hz.
(v) Radiodetermination stations:	
For all emissions	100.
(2) Band 1600-4000 kHz:	
(i) Coast Stations and Alaska fixed stations:	
For single sideband and facsimile.	20 Hz.
For narrow-band direct-printing and data emissions.	10 Hz.[2]
For digital selective calling emissions.	10 Hz.
For all other emissions	50.
(ii) Ship stations:	
For transmitters with narrow-band direct printing and data emissions.	10 Hz.[2]
For transmitters with digital selective calling emissions.	10 Hz.[3]
For all other transmitters	20 Hz.
(iii) Survival craft stations:	20 Hz.
(iv) Radiodetermination stations:	
With power 200W or less	20.
With power above 200W	10.
(3) Band 4000-27500 kHz:	
(i) Coast stations and Alaska fixed stations:	
For single sideband and facsimile emissions.	20 Hz.
For narrow-band direct printing and data emissions.	10 Hz.[2]
For digital selective calling emissions.	10 Hz.
For Morse telegraphy emissions	10.
For all other emissions	15.
(ii) Ship stations:	
For transmitters with narrow-band direct printing and data emissions.	10 Hz.[2]
For transmitters with digital selective calling emissions.	10 Hz.[3]
For all other transmitters	20 Hz.

Frequency bands and categories of stations	Tolerances[1]
(iii) Survival craft stations:	50 Hz.
(4) Band 72–76 MHz:	
(i) Fixed stations:	
Operating in the 72.0–73.0 and 75.4–76.0 MHz bands.	5.
Operating in the 73.0–74.6 MHz band.	50.
(5) Band 156–162 MHz:	
(i) Coast stations:	
For stations licensed to operate with a carrier power:	
Below 3 watts	10.
3 to 100 watts	5.
Above 100 watts	2.5.
(ii) Ship stations	10.[4]
(iii) Survival craft stations operating on 121.500 MHz.	50.
(iv) EPIRBs:	
Operating on 121.500 and 243.000 MHz.	50.
Operating on 156.750 and 156.800 MHz.	10.
(6) Band 216–220 MHz	
(i) Coast Stations:	
For all emissions	5.
(ii) Ship stations:	
For all emissions	5.
(7) Band 400–466 MHz:	
(i) EPIRBs operating on 406.025 MHz.	5.
(ii) On-board stations	5.
(iii) Radiolocation and telecommand stations.	5.
(8) Band 1626.5–1646.5 MHz:	
(i) Ship earth stations	5.

[1] Transmitters authorized prior to January 2, 1990, with frequency tolerances equal to or better than those required after this date will continue to be authorized in the maritime services provided they retain type acceptance and comply with the applicable standards in this part.

[2] The frequency tolerance for narrow-band direct printing and data transmitters installed before January 2, 1992, is 15 Hz for coast stations and 20 Hz for ship stations. The frequency tolerance for narrow-band direct printing and data transmitters type accepted or installed after January 1, 1992, is 10 Hz.

[3] Until February 2, 1999, the frequency tolerance for DSC ship station transmitters in the MF and HF bands that were installed before January 2, 1992, is 20 Hz. The frequency tolerance for DSC ship station transmitters in the MF and HF bands type accepted or installed after January 1, 1992, is 10 Hz. After February 1, 1999, the frequency tolerance for all DSC ship station transmitters in the MF and HF bands (regardless of installation date) is 10 Hz.

[4] For transmitters in the radiolocation and associated telecommand service operating on 154.585 MHz, 159.480 MHz, 160.725 MHz and 160.785 MHz the frequency tolerance is 15 parts in 10^6.

[5] This frequency tolerance applies to ship station transmitters until February 1, 1999. Thereafter, the frequency tolerance is 20 Hz.

* * * * *

6. In § 80.371 the table in paragraph (c) is amended by revising the first sentence in footnote 3 to read as follows:

§ 80.371 Public correspondence frequencies.

* * * * *

(c) * * *

[3] Within 121 kilometers (75 miles) of the United States/Canada border, in the area of the Puget Sound and the Strait of Juan de Fuca and its approaches, the frequency 157.425 MHz is available for use by ship stations for public correspondence communications only. * * *

* * * * *

7. In § 80.373 paragraph (f) is amended by revising the introductory text, adding the capital letter "A" to the numeric channels 01, 05, 07, 18, 19, 20, 22, 63, 65, 66, 78, 79, 80 and 88 listed under the column titled "Channel designator" in all tables to read 01A, 05A, 07A, 18A, 19A, 20A, 22A, 63A, 65A, 66A, 78A, 79A, 80A and 88A, adding footnote 14 to the entry for channel 70 and revising the entry and footnote for newly designated channel 20A to read as follows:

§ 80.373 Private communications frequencies.

* * * * *

(f) *Frequencies in the 156–162 MHz band.* The following tables describe the carrier frequencies available in the 156–162 MHz band for radiotelephone communications between ship and private coast stations. (Note: the letter "A" following the channel designator indicates simplex operation on a channel designated internationally as a duplex channel.)

** * * * *

FREQUENCIES IN THE 156–162 MHz BAND

*	*	*	*
20A[12]	157.000		Intership only.
*	*	*	*
70[14]	156.525	156.525	
*	*	*	*

[12] The duplex pair for channel 20 (157.000/161.600 MHz) may be used for ship to coast station communications.

* * * * *

[14] The frequency 156.525 MHz is to be used exclusively for distress, safety and calling using digital selective calling techniques. No other uses are permitted.

* * * * *

§ 80.375 [Amended]

8. Section 80.375(a) is amended by replacing the frequencies 121.500 kHz and 243.000 kHz with 121.500 MHz and 243.000 MHz, respectively.

9. Section 80.377 is amended by revising the last sentence to read as follows:

§ 80.377 Frequencies for ship earth stations.

* * * The frequency band 1645.5–1646.5 MHz is reserved for use in the Global Maritime Distress and Safety System (GMDSS).

10. Section 80.802 is amended by revising paragraph (a)(2) to read as follows:

§ 80.802 Inspection of station.

(a) * * *

(2) At inspection, the minimum field strength capability of the main installation and reserve installation when connected to the main antenna may be shown by the licensee by one of the following methods:

(i) Producing a record of communications on 500 kHz over a minimum distance of 370 kilometers (200 nautical miles) for the main installation and 185 kilometers (100 nautical miles) for the reserve installation which demonstrates the transmission and reception of clearly perceptible signals from ship to ship by day and under normal conditions and circumstances, or

(ii) Provide documentation by a professional engineer, or a person holding a first or second class radiotelegraph operator's certificate, or a general radiotelephone operator license, that the installation produces at 1.85 kilometers (one nautical mile) a minimum field strength of thirty (30) millivolts per meter for the main installation and ten (10) millivolts per meter for the reserve installation. The licensee shall provide, at a minimum, the name and license number of the individual making the measurements or record of communications.

* * * * *

[FR Doc. 92–14027 Filed 6–15–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 80

[Gen. Docket 88–372; FCC 92–235]

Automated Maritime Telecommunications Systems (AMTS)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action dismisses as moot a petition for reconsideration filed by the Association for Maximum Service Television, Inc. (MSTV) asking the Commission to reconsider its determination that no harmful interference would result from expanding Automated Maritime Telecommunications System (AMTS) operations to the Group C and D channels. It is necessary to clarify the issue of AMTS operation on Group C and D channels. The effect of the rule change is to reflect the reallocation of the Group C and D channels to the interactive video and data service.

EFFECTIVE DATE: July 16, 1992.

FOR FURTHER INFORMATION CONTACT: James A. Shaffer, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554, (202) 632–7197.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

(Proceeding Terminated)

Adopted: May 28, 1992.

Released: June 10, 1992.

By the Commission:

I. Introduction

1. This Memorandum Opinion and Order dismisses as moot the Association for Maximum Service Television, Inc. (MSTV) Petition for Reconsideration requesting we reconsider our determination that no harmful interference would result from expanding Automated Maritime Telecommunications System (AMTS)[1] operations to the Group C and D channels.[2]

II. Discussion

2. In the Notice of Proposed Rule Making, 53 FR 30075, August 10, 1988, 3 FCC Rcd 4736 (1988), we proposed to permit nationwide (*i.e.*, throughout the 50 states) AMTS operations in the entire 216–220 MHz band (Group A, B, C and D channels). In the First Report and Order, 56 FR 3782, January 31, 1991, 6 FCC Rcd 437 (1991), we amended the rules to permit AMTS operations on a nationwide basis and concluded that the safeguards built into the rules to protect TV channel 13 operations would allow nationwide use of all four Groups of AMTS channels.[3] Because of the Notice of Proposed Rule Making in GEN Docket No. 91–2, 56 FR 10222, March 11, 1991, 6 FCC Rcd 1368 (1991), which proposed to reallocate a portion of the Group C and D spectrum, we amended the rules to provide for nationwide AMTS operation only on Group A and B channels. A decision on allowing nationwide use of Group C and D channels was held in abeyance pending the outcome of that proceeding.

3. MSTV filed a Petition for Reconsideration, see FCC Public Notice No. 1841, March 21, 1991, requesting that we reconsider our conclusion in the First Report and Order that no harmful interference to TV Channel 13 reception would result from AMTS operation on frequencies below 217.000 MHz (Group C and D channels) in areas closer than 105 miles to television stations operating on TV Channel 13. See MSTV petition at 10. Waterway Communications System, Inc. (Watercom), and Riverphone, Inc. (Riverphone) filed comments opposing MSTV's Petition for Reconsideration. MSTV filed reply comments.

4. As noted previously, we withheld consideration of issues pertaining to the nationwide expansion of AMTS operations on Group C and D channels. These issues were to be addressed after consideration of the Notice of Proposed Rule Making in GEN Docket No. 91–2 seeking a portion of the 216–220 MHz band for a new interactive video and data service (IVDS). In view of the decision in GEN Docket No. 91–2 to reallocate the 218–219 MHz band (Group C and D ship transmit channels) for IVDS, See 7 FCC Rcd 1630 (1992), the issue of AMTS operation on Group C & D channels is moot.[4] We have made editorial changes to the Rules, however, to reflect the reallocation of the Group C and D ship channels.

III. Ordering Clauses

5. Accordingly *it is Ordered* that pursuant to the authority contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r) and § 1.429(i) of the Commission's Rules, 47 CFR 1.429(i), the Petition for Reconsideration filed by MSTV is dismissed as moot.

6. *It is further Ordered* that pursuant to the authority contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), Part 80 of the Commission's Rules is amended asset forth below, effective July 16, 1992. Because these amendments ordered herein are non-substantive and editorial in nature, and, therefore, not controversial, they constitute minor amendments to our rules in which the public is not likely to be interested. For good cause shown, compliance with the notice and comment procedure of the Administrative Procedure Act is unnecessary. See 5 U.S.C. 553(b)(B).

7. *It is further Ordered* that this proceeding is terminated.

List of Subjects in 47 CFR Part 80

Communications equipment, Vessels, Automated Maritime Telecommunications System.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Final Rule

Part 80 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for part 80 continues to read as follows:

Authority. Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 U.S.T. 3450, 3 U.S.T. 4726, 12 U.S.T. 2377.

2. Section 80.385 is amended by revising paragraph (a)(2) to read as follows:

§ 80.385 Frequencies for automated systems.

(a) * * *

(2) The following carrier frequency pairs are available for radiotelephony, facsimile and teleprinter communications. AMTS operations must not cause harmful interference to the U.S. Navy SPASUR system which operates in the band 216.880–217.080 MHz.

Channel No.	Carrier frequency (MHz)		
	Ship transmit [1]	Coast transmit [2]	Group
101		216.0125	D
102		216.0375	
103		216.0625	
104		216.0875	
105		216.1125	
106		216.1375	
107		216.1625	
108		216.1875	
109		216.2125	
110		216.2375	
111		216.2625	
112		216.2875	
113		216.3125	
114		216.3375	
115		216.3625	
116		216.3875	
117		216.4125	
118		216.4375	
119		216.4625	
120		216.4875	
121		216.5125	C
122		216.5375	
123		216.5625	
124		216.5875	
125		216.6125	
126		216.6375	
127		216.6625	
128		216.6875	
129		216.7125	

[1] The AMTS provides automated, integrated, interconnected ship-to-shore communications similar to a cellular phone system, including non-voice services, for vessels to use as they move along a waterway. It offers improved services over those available from individual public coast stations.

[2] There are 80 channel pairs in the AMTS, divided into four groups of 20 (Groups A, B, C and D). *See* § 80.385, 47 CFR 80.385.

[3] In the First Report and Order, we rejected broadcasters argument that there would be greater risk of interference to TV reception from AMTS operation on the Group C and D channels. These rules require an AMTS licensee to demonstrate no harmful interference to broadcast operations, but, more importantly, if interference does occur the AMTS licensee must eliminate it or cease operation. See 47 CFR 80.215(h)(1)–(5) and 80.475(b)(1)&(2). We concluded that TV reception interference concerns had been thoroughly considered and resolved.

[4] The reallocation of Group C and D ship channels for IVDS leaves 40 single channels (Group C and D coast stations). AMTS is designed to use channel pairs. We will decide at a later time how these single channels can best be used.

Channel No.	Carrier frequency (MHz)		
	Ship transmit [1]	Coast transmit [2]	Group
130		216.7375	
131		216.7625	
132		216.7875	
133		216.8125	
134		216.8375	
135		216.8625	
136		216.8875	
137		216.9125	
138		216.9375	
139		216.9625	
140		216.9875	
141	219.0125	217.0125	B
142	219.0375	217.0375	
143	219.0625	217.0625	
144	219.0875	217.0875	
145	219.1125	217.1125	
146	219.1375	217.1375	
147	219.1625	217.1625	
148	219.1875	217.1875	
149	219.2125	217.2125	
150	219.2375	217.2375	
151	219.2625	217.2625	
152	219.2875	217.2875	
153	219.3125	217.3125	
154	219.3375	217.3375	
155	219.3625	217.3625	
156	219.3875	217.3875	
157	219.4125	217.4125	
158	219.4375	217.4375	
159	219.4625	217.4625	
160	219.4875	217.4875	
161	219.5125	217.5125	A
162	219.5375	217.5375	
163	219.5625	217.5625	
164	219.5875	217.5875	
165	219.6125	217.6125	
166	219.6375	217.6375	
167	219.6625	217.6625	
168	219.6875	217.6875	
169	219.7125	217.7125	
170	219.7375	217.7375	
171	219.7625	217.7625	
172	219.7875	217.7875	
173	219.8125	217.8125	
174	219.8375	217.8375	
175	219.8625	217.8625	
176	219.8875	217.8875	
177	219.9125	217.9125	
178	219.9375	217.9375	
179	219.9625	217.9625	
180	219.9875	217.9875	

[1] Ship transmit frequencies in Group C and D are not authorized for AMTS use.
[2] Coast station operation on frequencies in Group C and D are not currently assignable.

* * * * *

[FR Doc. 92-14028 Filed 6-15-92; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock in statistical area 63 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the second quarterly allowance of the total allowable catch (TAC) for pollock in this area.

DATES: Effective 12 noon, Alaska local time (A.l.t.), June 12, 1992, until 12 noon, A.l.t., June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the exclusive economic zone within the GOA is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The second quarterly allowance of pollock TAC to statistical area 63 is 10,402 metric tons, determined in accordance with § 672.20(a)(2)(iv).

Under § 672.20(c)(2)(ii), the Director of the Alaska Region, NMFS, has determined that the second quarterly allowance of pollock TAC to statistical area 63 will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock in statistical area 63, effective from 12 noon A.l.t., June 12, 1992, until 12 noon, A.l.t., June 29, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 10, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation, and Management, National Marine Fisheries Service.

[FR Doc. 92-14078 Filed 6-11-92; 2:32 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 116
Tuesday, June 16, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1703

RIN 0572-AA60

Deferments of REA Loan Payments for Rural Development Projects

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to establish policies, requirements and procedures that would allow REA-financed electric and telephone borrowers to defer insured or direct loan payments in an amount equal to an investment in a rural development project. Deferments of REA loan payments are provided for the purpose of promoting rural development opportunities.

DATES: Written comments must be received by REA or carry a postmark or equivalent no later than July 16, 1992.

ADDRESSES: Submit an original and three copies of written comments to Blaine D. Stockton, Jr., Assistant Administrator, Economic Development and Technical Services, Rural Electrification Administration, room 4025, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500. Comments may be inspected at room 2238 of the South Building between 8:30 a.m. and 5 p.m. (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Blaine D. Stockton, Jr., Assistant Administrator, Economic Development and Technical Services, telephone number (202) 720–9552.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established by the Order.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If adopted, this proposed rule: (1) will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule; (2) will not have any retroactive effect; and (3) will not require administrative proceedings before parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act Certification

This action does not fall within the scope of the Regulatory Flexibility Act.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implements the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504 of that Act, the information collection and recordkeeping requirements contained in this proposed rule have been submitted to OMB for review. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, room 3201, NEOB, Washington, DC 20503.

National Environmental Policy Act Certification

The Administrator has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under numbers 10.850, Rural Electrification Loans and Loan Guarantees and 10.851, Rural Telephone Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Background

Section 12 of the Rural Electrification Act of 1936 was amended by Section 2344 of the Rural Economic Development Act of 1990 (7 U.S.C. 912). Subject to limitations established in appropriations Acts, the Administrator of REA shall permit any electric and telephone borrower to defer the payment of principal and interest on any insured or direct electric or telephone loan made under the RE Act and invest the deferred amounts in rural development projects. The total amount of deferments approved under this program shall not exceed 3 percent of the total payments due during each of the fiscal years 1990 through 1993 from all borrowers on direct and insured loans made pursuant to the RE Act. For each subsequent fiscal year after 1993, the total amount of deferments in any year shall not exceed 5 percent of the total payments due for the year from all borrowers on direct and insured loans.

This proposal establishes the policies and requirements which would enable the Administrator to defer loan payments for the purpose of promoting rural development projects. The principal proposed provisions of 7 CFR 1703.300 are summarized as follows:

(1) Borrowers may defer the payment of principal and interest on any insured or direct loan provided the deferred amount is invested in a rural development project.

(2) Deferments would be limited to 50 percent of the total cost of the rural development project(s).

(3) Borrowers may defer debt service payments only in an amount equal to an investment made by the borrower in the rural development project(s).

(4) Borrowers must make a cushion of credit payment to the Administrator equal to the amount deferred. The cushion of credit payment must be made during the period that begins one full year prior to the date REA receives the borrower's application for the deferment and ends on the date the payment is deferred. The balance of the account containing these cushion of credit payments could not be reduced by the borrower below the level of the unpaid balance of the payment deferred.

(5) The cushion of credit payment would earn 5 percent interest per year.

(6) In the case of deferments made to enable a borrower to provide financing to local businesses, the deferment shall be repaid over a period of 60 months, in equal installments, with payments beginning on the date of the deferment and continuing in such a manner until the total amount of the deferment is repaid. The deferment payments shall be made in accordance with the existing repayment terms of the loan being deferred. The deferment shall not accrue interest.

(7) In the case of deferments made to enable a borrower to provide community development assistance, technical assistance to businesses, and for other community, business, or economic development projects not included above, the deferment shall be repaid over a period of 120 months, in equal installments, with payments beginning on the date of the deferment and continuing in such a manner until the total amount of the deferment is repaid. The deferment payments shall be made in accordance with the existing repayment terms of the loan being deferred. The deferment shall not accrue interest.

(8) Upon approval of a deferment, the incremental amounts of the deferment for a specific project may be requested over a period of one year. Prior to each incremental deferment request:

(a) REA must have received the cushion of credit payment in an amount equal to the incremental amount deferred, and

(b) A certification shall be received from the borrower that an investment has been made in the rural development project by the borrower in an amount equal to the incremental amount deferred.

(9) In the case of electric borrowers, investments in rural development projects made under this program will be included in the calculation to determine the percentage of investments to total utility plant under 7 CFR part 1717, subpart N.

(10) Investments in rural development projects made by telephone borrowers under this subpart will be subject to the provisions of 7 CFR part 1744.

The Administrator reserves the right to require additional data from borrowers before acting on a deferment. For example, in states where the borrower is regulated by a utility commission, the Administrator may require a letter from the commission granting approval of a loan payment deferment and the authorization to invest the deferred amount in a rural economic development project. The Administrator also reserves the right to require, as a condition of approving a loan payment deferment pursuant to this subpart, that the borrower execute and deliver any amendments or supplements to its loan documents that may be necessary or appropriate to achieve the purposes outlined in this subpart.

Prospective recipients of funds received from the deferment of loan payments are encouraged to fully consider the potential environmental impacts of their applications at the earliest planning stages and develop plans and projects that minimize the potential to adversely affect the quality of the environment.

List of Subjects in 7 CFR Part 1703

Community development, Grant programs-housing and community development, Loan programs-housing and community development, Reporting and recordkeeping requirements, Rural areas.

For reasons set out in the preamble, chapter XVII of title 7 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1703—RURAL DEVELOPMENT

1. The authority citation for 7 CFR part 1703 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*

2. Subpart C is added and reserved and subpart E is added to part 1703 to read as follows:

Subpart C—Rural Business Incubator Program [Reserved]

* * * * *

Subpart E—Deferments of REA Loan Payments for Rural Development Projects

Sec.

1703.300 Purpose.
1703.301 Policy.
1703.302 Definitions and rules of construction.
1703.303 Eligibility criteria for deferment of loan payments.
1703.304 Requirement criteria for deferment of loan payments.
1703.305 Limitation on funds derived from the deferment of loan payments.
1703.306 Uses of the deferments of loan payments.
1703.307 Amount of deferment funds available.
1703.308 Terms of repayment of deferred loan payments.
1703.309 Environmental considerations.
1703.310 Application procedures for deferment of loan payments.
1703.311 REA review requirements.
1703.312 Compliance with other regulations.

Subpart C—Rural Business Incubator Program [Reserved]

* * * * *

Subpart E—Deferments of REA Loan Payments for Rural Development Projects

§ 1703.300 Purpose.

This subpart sets forth REA's policies and procedures for making loan deferments of principal and interest payments on insured or direct loans made for electric or telephone purposes, but not for loans made for rural economic development purposes, in accordance with subsection (b) of section 12 of the Rural Electrification Act of 1936 (RE Act), as amended (7 U.S.C. 901 *et seq.*). Loan deferments are provided for the purpose of promoting rural development opportunities.

§ 1703.301 Policy.

It is REA's policy to encourage borrowers to invest in and promote rural development and rural job creation projects that are based on sound economic and financial analyses. Borrowers are encouraged to use this program to promote economic, business and community development projects that will benefit rural areas.

§ 1703.302 Definitions and rules of construction.

(a) *Definitions.* For the purpose of this subpart, the following terms will have the following meanings:

Administrator means the Administrator of REA.

Borrower means any organization which has an outstanding insured or direct loan made by REA for the provision of electric or telephone service.

Borrower's own funds means money belonging to the borrower other than:

(1) Proceeds of loans made, guaranteed or lien accommodated by the Administrator or grants made by the Administrator;

(2) Funds necessary to make timely payments of principal and interest on loans made, guaranteed or lien accommodated by the Administrator;

(3) Insurance proceeds from mortgaged property;

(4) Damage awards and sale proceeds resulting from eminent domain and similar proceedings involving mortgaged property;

(5) Sale proceeds from mortgaged property sales requiring specific Administrator approval; and

(6) Funds on deposit in the cash construction fund—trustee account.

Cushion of credit payment means a voluntary unscheduled payment on an REA note made after October 1, 1987, credited to the cushion of credit account of a borrower.

Deferment means an authorized delay in the payment of principal and/or interest on an REA loan for a specified time.

Financially distressed borrower means an REA-financed borrower determined by the Administrator to be either:

(1) In default or near default on interest or principal payments due on loans made or guaranteed under the RE Act;

(2) Participating in a workout or debt restructuring plan with REA; or

(3) Experiencing a financial hardship.

Insured loan means a loan which is made, held, and serviced by the Administrator, and sold and insured by the Administrator, in accordance with section 305 of the RE Act (7 U.S.C. 901 et. seq.).

Job creation means the creation of jobs in rural areas, or in close enough proximity to rural areas so that it is likely that the majority of the jobs created will be held by residents of rural areas.

Loan means a loan made by the Administrator pursuant to titles I, II, or III of the RE Act for the provision of electric or telephone service in rural areas and does not include a loan made to promote economic development in rural areas.

Project means a rural development project that a borrower proposes and the Administrator approves as qualifying under this subpart.

RE Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

REA means the Rural Electrification Administration, an agency of the United States Department of Agriculture.

Technical assistance means market research, product or service improvement, feasibility studies, environmental studies, and similar activities that benefit rural development or rural job creation projects.

(b) *Rules of construction.* Unless the context otherwise indicates, "includes" and "including" are not limiting, and "or" is not exclusive. The terms defined in § 1703.302(a) of this part include the plural as well as the singular, and the singular as well as the plural.

§ 1703.303 Eligibility criteria for deferment of loan payments.

The deferment of loan payments may be granted to any borrower that is not a financially distressed borrower, delinquent on any Federal debt, or in bankruptcy proceedings. However, the deferment of loan payments will not be granted to a borrower during any period in which the Administrator has determined that no additional financial assistance of any nature should be provided to the borrower pursuant to any provision of the RE Act. The determination to suspend eligibility for the deferment of loan payments under this subpart will be based on:

(a) The borrower's demonstrated unwillingness to exercise diligence in repaying REA loans or loan guarantees that results in the Administrator being unable to find that a loan, or loan guaranteed by the Administrator, would be repaid within the time agreed;

(b) The borrower's demonstrated unwillingness to meet the requirements in REA's legal documents or regulations; or

(c) Other actions on the part of the borrower that thwart the achievement of the objectives of the REA program.

§ 1703.304 Requirement criteria for deferment of loan payments.

(a) The deferment must not impair the security of any loans made on behalf of the United States of America under the RE Act or by the Administrator.

(b) A borrower may defer debt service payments only in an amount equal to an investment made in a rural development project. The investment must be made from the borrower's own funds.

(c) The amount of the deferment must not exceed 50 percent of the total cost of a community, business, or economic development project for which a deferment is provided.

(d) The borrower must make a cushion of credit payment equal to the amount of the payment deferred. The cushion of credit payment must be made during the period that begins one full year prior to the date REA receives the borrower's application for the deferment and ends on the date the payment is deferred. One full year begins on the same calendar date in the previous year. The balance of the account containing these cushion of credit payments must not be reduced by the borrower below the level of the unpaid balance of the payment deferred. The cushion of credit payment will earn 5 percent interest.

(e) Upon approval of a deferment by the Administrator, the incremental amounts of the deferment for a rural development project may be requested over a period of one year. Prior to each incremental deferment request:

(1) A cushion of credit payment must be received by the Administrator in an amount equal to the incremental amount deferred in accordance with paragraph (d) of this section; and

(2) A certification must be received from the borrower which indicates that an investment has been made in the rural development project by the borrower in an amount equal to the incremental amount deferred.

§ 1703.305 Limitation on funds derived from the deferment of loan payments.

Funds derived from the deferment of loan payments will not be used:

(a) To fund or assist projects which would, in the judgement of the Administrator, create a conflict of interest or the appearance of a conflict of interest. The borrower must disclose to the Administrator information regarding any potential conflict of interest or appearance of a conflict of interest;

(b) For any purpose not reasonably related to the project as determined by the Administrator;

(c) To transfer existing employment or business activities from one area to another; or

(d) For the borrower's electric or telephone operations, nor for any operations affiliated with the borrower unless the Administrator has specifically informed the borrower in writing that the affiliated operations are part of the approved purposes.

§ 1703.306 Uses of the deferments of loan payments.

The deferment of loan payments will be made to enable the borrower to provide funding and assistance for rural development and job creation projects. This includes, but is not limited to, the borrower providing financing to local businesses, community development assistance, technical assistance to businesses, and other community, business, or economic development projects that will benefit rural areas.

§ 1703.307 Amount of deferment funds available.

(a) The total amount of deferments made available for each fiscal year under this program will not exceed 3 percent of the total payments due during each of the fiscal years 1990 through 1993 from all borrowers on direct and insured loans made under the RE Act. For each subsequent fiscal year after 1993, the total amount of deferments will not exceed 5 percent of the total payments due for the year from all borrowers on direct and insured loans.

(b) The total amount of annual deferments are subject to limitations established by appropriations Acts.

§ 1703.308 Terms of repayment of deferred loan payments.

(a) Deferments made to enable the borrower to provide financing to local businesses will be repaid over a period of 60 months, in equal installments, with payments beginning on the date of the

deferment, and continuing in such a manner until the total amount of the deferment is repaid. The deferment payments will be made in accordance with the existing repayment terms of the loan being deferred. The deferment will not accrue interest.

(b) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, and for other community, business, or economic development projects not included in paragraph (a) of this section, the deferment will be repaid over a period of 120 months, in equal installments, with payments beginning on the date of the deferment and continuing in such a manner until the total amount of the deferment is repaid. The deferment payments will be made in accordance with the existing repayment terms of the loan being deferred. The deferment will not accrue interest.

(c) The maturity date of a loan may not be extended as a result of a deferment.

(d) If the required payment is not made by the borrower or received by the Administrator when due, the Administrator will reduce the borrower's cushion of credit amount established under this subpart in an amount equal to the deferment payment required.

§ 1703.309 Environmental considerations.

Prospective recipients of funds received from the deferment of loan payments are encouraged to consider the potential environmental impact of their proposed projects at the earliest planning stage and plan development in a manner that reduces, to the extent practicable, the potential to affect the quality of the human environment adversely.

§ 1703.310 Application procedures for deferment of loan payments.

(a) A borrower applying for a deferment must:

(1) Submit a certified board resolution to the Administrator requesting a deferment of principal and interest. The resolution must:

(i) Be signed by the president or vice president of the borrower;

(ii) Contain information on the total amount of deferment requested for each specific project;

(iii) Contain information on the type of project and the length of deferment requested as defined in § 1703.308 of this subpart; and

(iv) Certify that the proposed project will not violate the limitations set forth in § 1703.305 and disclose all information regarding any potential conflict of interest or appearance of a conflict of interest that would allow the Administrator to make an informed decision;

(2) Certify to the Administrator that an investment in the rural development project will be made by the borrower in an amount equal to the deferred debt service payment;

(3) Certify to the Administrator that the amount of the deferment will not exceed 50 percent of the total cost of the project for which the deferment is provided;

(4) Certify to the Administrator that it will make, or has made within the last full year, a cushion of credit payment necessary to satisfy the requirement of § 1703.304(d);

(5) Identify to the Administrator in writing the loan or loans for which payments are to be deferred;

(6) Provide a written narrative which contains information regarding the proposed rural development or job creation project such as the manner in which the project will promote community, business, or economic development in rural areas, the nature of the project, its location, the primary beneficiaries, and, if applicable, the number and type of jobs to be created;

(7) Certify to the Administrator that it will comply with § 1703.312 and provide documentation showing that its total investments, including the proposed investment, will not exceed the investment limitations specified in 7 CFR part 1717, Subpart N, Investments, Loans and Guarantees by Electric Borrowers, or 7 CFR part 1744, Post Loan Policies and Procedures Common to Guaranteed and Insured Loans. The documentation must provide a list of each rural development project the borrower has invested in to date, including the investment amounts; and

(8) Provide a letter of approval from the state regulatory authority, if applicable, granting its approval for the borrower to defer a loan payment and invest the amount in a rural development project.

(b) The Administrator reserves the right to determine that special circumstances require additional data from borrowers before acting on a deferment. The Administrator also reserves the right to require, as a condition of approving a loan payment deferment pursuant to this subpart, that the borrower execute and deliver any amendments or supplements to its loan documents that may be necessary or appropriate to achieve the purposes outlined in § 1703.300. The Administrator will decide whether to approve the deferment and notify the borrower of the decision.

§ 1703.311 REA review requirements.

Borrowers shall ensure that funds are invested in the rural development project as approved by REA. The Administrator reserves the right to review the books and copy records of borrowers receiving loan payment deferments as necessary to ensure that the investments in the rural development project are in accordance with the borrower's application, REA's approved purposes, and this subpart. If an audit discloses that the amount deferred was not used for the approved purposes, the borrower shall be required to promptly repay the amount deferred and the benefits of the deferment to the borrower will be recaptured by REA. The borrower is responsible for ensuring that disbursements and expenditures of funds covering the investment in the rural development project are properly supported with certifications, invoices, contracts, bills of sale, cancelled checks, or any other forms of evidence determined appropriate by the Administrator and that such supporting material is available at the borrower's premises for review by the REA field accountant, borrower's certified public accountant, the Office of Inspector General, the General Accounting Office and any other accountant conducting an audit of the borrower's financial statements or this rural development program.

§ 1703.312 Compliance with other regulations.

(a) Investments in a rural economic development project made by an electric borrower under this subpart are subject to the provisions of 7 CFR part 1717, Subpart N, Investments, Loans and Guarantees by Electric Borrowers.

(b) Investments in a rural economic development project made by a telephone borrower under this subpart are subject to the provisions of 7 CFR Part 1744, Post Loan Policies and Procedures Common to Guaranteed and Insured Loans.

Dated: March 23, 1992.

Michael M.F. Liu,

Acting Administrator.

[FR Doc 92-14105 Filed 6-15-92; 8:45 am]

BILLING CODE 3410-15-F

FARM CREDIT ADMINISTRATION

12 CFR Part 611

RIN 3052-AA09

Organization; Director Compensation

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA) by the Farm Credit Administration Board (Board) proposes to amend § 611.400 so that it conforms with the Farm Credit Act of 1971 (1971 Act) as amended by the Agricultural Credit Technical Corrections Act of 1988 (1988 Act).[1] The proposed amendment to § 611.400 would authorize Farm Credit System (FCS) banks to pay their directors fair and reasonable compensation that does not exceed the amount set forth in section 4.21 of the 1971 Act, as amended. The proposed regulation would also require FCS banks to identify the amount of reimbursement that directors receive for travel, subsistence, and other related expenses separately from cash compensation in annual disclosures to shareholders and reports to the FCA.

DATES: Comments should be received on or before July 16, 1992.

ADDRESSES: Comments may be mailed or delivered (in triplicate) to Jean Noonan, General Counsel, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administraiton.

FOR FURTHER INFORMATION CONTACT: Linda C. Sherman, Senior Credit Specialist, Policy and Risk Analysis Division, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444, or Richard A. Katz, Senior Attorney, Regulatory and Legislative Law Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION:

In August 1988, Congress amended the 1971 Act to: (1) Limit the compensation paid to a bank director to $15,000 per annum; [2] and (2) abolish the district boards. [3] The FCA now proposes to amend § 611.400 [4] so it conforms with the 1971 Act, as amended by the 1988 Act. Accordingly, the FCA proposes to delete the provision in current § 611.400(b)(2) that prohibits FCS banks from paying directors more than $200 per day. Instead, proposed § 611.400(b)(2) would authorize FCS banks to pay their directors compensation in an amount that does not exceed the limit set by the 1971 Act, as amended. Proposed technical amendments to § 611.400 include: (1) Replacing the terms "district board" and "district directors" with "bank board" and "bank directors" respectively throughout the regulation; and (2) changing the reference to the 1971 Act in § 611.400(a) from "section 5.5" to "section 4.21."

The FCA also proposes to add a new paragraph (c)(6) to § 611.400 which would require each bank to distinguish the reimbursement of travel, subsistence, and other related expenses incurred by a director from cash compensation paid to the director, both in disclosures to shareholders pursuant to § 620.5(i)(1),[5] and in reports to the FCA. While the bank is not required to include travel, subsistence, and other related expenses as an element of total compensation for the purposes of computing the maximum compensation allowed by statute, such reimbursable expenses should be reasonable and well documented. Proposed § 611.400(c)(6) would ensure that any party reviewing the annual compensation figures will be able to clearly identify the various components of director compensation paid during the year. Currently, all forms of director compensation are reported in a lump sum in each FCS bank's call report to the FCA. The FCA is withdrawing its proposed rule that was published at 52 FR 43081 (November 9, 1987) because FCS banks are currently required by § 620.5(i)(1) to disclose director compensation to their shareholders.

The FCA has not made any other substantive changes to the remainder of § 611.400, but the agency proposes several technical changes in order to provide greater clarity and consistency in this regulation. Accordingly, the FCA continues to believe that it is necessary for FCS banks to develop written policies and maintain records documenting all compensation and expense allowances paid to directors by each board. Furthermore, the proposed regulation would continue to prohibit any FCS bank from compensating a director for rendering services to an FCS association, a service corporation, the Federal Farm Credit Banks Funding Corporation, or a cooperative of which the director is a member, or for performing other assignments of a nonofficial nature.

List of Subjects in 12 CFR Part 611

Accounting, Agriculture, Archives and records, Banks, banking, Credit, Government securities, Investments, Organization and functions (Government agencies), Rural areas.

For the reasons stated in the preamble, part 611 of chapter VI, title 12, of the Code of Federal Regulations is proposed to be amended as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 is revised to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.9, 5.10, 5.17, 7.0-7.13, 8.5(e) of the Farm Credit Act; 12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2243, 2244, 2252, 2279a-2279f-1, 2279aa-5(e); secs. 411 and 412 of Pub. L. 100-233; secs. 409 and 414 of Pub. L. 100-399.

Subpart D—Rules for Compensation of Board Members

2. Section 611.400 is amended by removing the words, "district directors" and adding in their place, "bank directors" in paragraph (b) introductory text and paragraph (b)(2); by removing the words, "$200 per day" and adding their place, "limits established by the Farm Credit Act of 1971, as amended" in paragraph (b)(2); by adding the words "travel, subsistence, and other related" after the word "for" in paragraph (b)(3); by removing the words "and subsistence" and adding in their place, the words", subsistence, and other related" in paragraph (b)(5); by removing the words "district board" and adding in their place, the words "bank board" each place it appears in paragraphs (b) introductory text and (c) introductory text; by revising paragraph (a); and by adding a new paragraph (c)(6) to read as follows:

§ 611.400 Compensation of Bank Board members.

(a) Farm Credit banks are authorized to pay, in accordance with section 4.21 of the Farm Credit Act of 1971, as amended, fair and reasonable compensation to directors for services performed in an official capacity. No Farm Credit bank shall compensate any director for rendering services on behalf of any other Farm Credit institution or a

[1] Pub. L. No. 100-399, 102 Stat. 989 (1988).

[2] Section 414 of the 1988 Act, which added section 4.21 to the 1971 Act.

[3] Section 409 of the 1988 Act repealed sections 5.1 through 5.6 of the 1971 Act.

[4] See 52 FR 36012, (September 25, 1987), as redesignated and amended at 53 FR 50381, (December 15, 1988).

[5] See 56 FR 29412 (June 27, 1991), as corrected at 56 FR 42649 (August 28, 1991).

cooperative of which the director is a member, or for performing other assignments of a nonofficial nature.

* * * * *

(c) * * *

(6) Such compensation shall be disclosed to shareholders on an annual basis, in compliance with § 620.5(i)(1) of this chapter. Such disclosure, and any requisite reporting to the Farm Credit Administration shall identify cash compensation paid to directors separately from the reimbursement of travel, subsistence, and other related expenses paid to each director.

Dated: June 10, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-13960 Filed 6-15-92; 8:45 am]

BILLING CODE 6705-01-M

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12 CFR Part 612

RIN 3052-AB08

Personnel Administration; Human Resources Policies, Retirement Plans

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA) by the Farm Credit Administration Board (Board) proposes to repeal the current regulations in subpart A of part 612 governing human resources policies, and retirement and thrift savings plans at all Farm Credit System (FCS or System) institutions. Amendments to the Farm Credit Act of 1971 (1971 Act) during the past 12 years support the FCA's decision to repeal these regulations. The FCA believes that System institutions should now assume greater responsibility for developing and implementing their own human resources management policies because the FCA, in the aftermath of the Farm Credit Amendments Act of 1985 [1] (1985 Act), is the arms-length safety and soundness regulator of the FCS. As a result of the Food, Agriculture, Conservation and Trade Act of 1990 [2] (1990 Farm Bill), the FCA proposes to repeal § 612.2110, which requires agency approval of Farm Credit district retirement and thrift savings plans. The FCA will retain safety and soundness authority over human resources administration and Farm Credit district retirement and thrift savings plans once these regulations are replaced.

DATES: Comments should be received on or before July 16, 1992.

ADDRESSES: Comments may be mailed or delivered (in triplicate) to Jean Noonan, General Counsel, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Linda C. Sherman, Senior Credit Specialist, Policy and Risk Analysis Division, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090 (703) 883-4327, TDD (703) 883-4444, or

Richard A. Katz, Senior Attorney, Regulatory and Legislative Law Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION:

I. General

While Congress has substantially restructured the FCS during the past 12 years, the FCA has not made major revisions to its human resources management regulations in subpart A of part 612 since 1980. See 45 FR 69881 (October 22, 1980). As a result of the 1985 Act, the FCA is now an arms-length safety and soundness regulator that exercises regulatory and examination authority, rather than operational control, over the FCS. In this context, the FCA concludes that FCS institutions should assume a greater role in formulating the human resources policies that affect their employees.

Accordingly, the FCA proposes to repeal the regulations in subpart A of part 612. The FCA adopts an approach toward human resources management that is consistent with the policies of other Federal regulators of financial institutions. The FCA notes that other Federal financial institution regulators rely upon their examination powers to detect and prevent unsafe and unsound human resources management practices.

Similarly, the FCA upon repeal of the regulations in subpart A, part 612, will rely upon its examination and enforcement authority over FCS institutions to detect and prevent unsafe and unsound human resources management practices. This safety and soundness authority derives from several provisions of the 1971 Act. Section 1.2 of the 1971 Act states that all FCS institutions are subject to the regulation of the FCA. Section 5.17(a)(9) of the 1971 Act authorizes the FCA to prescribe rules and regulations that are necessary or appropriate for carrying out the Act. The FCA is authorized by section 5.17(a)(10) to ensure the safety and soundness of all System institutions by exercising the enforcement powers conferred on it by part C of title V of the 1971 Act. Section 5.17(11) of the 1971 Act confers upon the FCA the authority to exercise incidental powers as may be necessary to fulfill its duties and carry out the purposes of the statute. Section 5.19(a) of the 1971 Act authorizes the FCA to examine the compensation paid to chief executive officers (CEO) and the salary scales of employees at Farm Credit banks.

II. Retirement Plans

One of the regulations in subpart A of part 612 that the FCA proposes to repeal is § 612.2110, which governs Farm Credit district and thrift savings plans. Except for one Farm Credit district, all bank and association employees in each Farm Credit district are covered by a single retirement plan. Retirement benefits are also supplemented by thrift savings program. Section 612.2110 requires bank boards to: (1) Provide retirement benefits to employees who are not covered by the Civil Service Retirement Act; (2) obtain prior approval from the FCA for retirement and thrift savings plans; and (3) secure Internal Revenue Service (IRS) approval of such plans.

Prior to the 1990 Farm Bill, section 5.17(a)(13) of the 1971 Act required FCA approval of employee salary scales and the compensation of the CEO at all System banks, while section 6.6(a)(8)(B) of the 1971 Act, authorized the FCA to approve the compensation and retirement benefits of the CEO, other managers, and directors of all System institutions that receive financial assistance from the Farm Credit System Assistance Board. Section 1843 of the 1990 Farm Bill repealed both of these provisions, but amended section 5.19(a) of the 1971 Act to specifically require FCA examination of the employee salary scales and CEO compensation at all System banks.

In the aftermath of the 1990 Farm Bill, the FCA has decided that the agency no longer needs to approve Farm Credit district retirement and thrift savings plans. After § 612.2110 is repealed, the FCA will exercise its safety and soundness authority over Farm Credit district retirement and thrift savings plans through the examination and enforcement process. From the perspective of the FCA, Farm Credit district retirement plans that are not properly funded or managed can expose the institutions in the district to liabilities that undermine their solvency.

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[1] Public Law No. 99-205, 99 Stat. 1678 (1985).

[2] Public Law No. 101-624, 104 Stat. 3359 (1990).

Farm Credit district retirement plans are government pensions plans under the Budget and Accounting Procedures Act of 1950, as amended, 31 U.S.C. 9502(1)(B)(iv). Government pension plans are exempt from most provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1001 *et seq.* ERISA provisions pertaining to participation and vesting, funding, and fiduciary responsibility are not applicable to government pension plans. See 29 U.S.C. 1051, 1081, and 1101. Furthermore, the Department of Labor has not exercised supervisory authority over Farm Credit district retirement plans since the Secretary of Labor opined that System plans are not covered by ERISA. See Op. Sec. of Labor (June 16, 1976).

Government pension plans are not insured by the Pension Benefit Guaranty Corporation (PBGC), 29 U.S.C. 1321(b)(2). The General Counsel of PBGC issued a legal opinion on April 15, 1977, which specifically concluded that Farm Credit district retirement plans are not subject to the insurance provisions in title IV of ERISA.

The Budget and Accounting Procedures Act of 1950, 31 U.S.C. 9503 requires that government pension plans comply with the reporting and disclosure requirements of sections 103 and 104(a) of ERISA, 29 U.S.C. 1023 and 1024(a). Accordingly, Farm Credit district retirement plans are required to submit annual reports that comply with sections 103 and 104(a) of ERISA to the Comptroller General. Additionally, section 103 of ERISA and 31 U.S.C. 9503(a)(5) require that an audit prepared by an independent qualified public accountant accompany the annual report.

Farm Credit district retirement and thrift savings plans qualify as government plans under section 414(d) of the Internal Revenue Code (IRC), 26 U.S.C. 414(d). Government plans are exempt from IRC provisions that establish minimum participation, vesting, and funding standards. See 26 U.S.C. 410(c)(1), 411(e)(1), and 412(h). As a result of these exemptions, the supervisory authority of the Internal Revenue Service (IRS) over Farm Credit district retirement plans is minimal.

Since the Federal agencies that regulate pension plans have minimal supervisory and regulatory authority over Farm Credit district retirement plans, the FCA shall exercise its powers under the 1971 Act to examine these plans for safety and soundness. If the prior approval authority is repealed, the FCA recognizes the possibility that abuses, if any, may only be discovered after they have occurred. The FCA emphasizes the responsibility of FCS institutions to continue to act in a manner which addresses the best interests of the System, its employees, and its shareholders.

III. Miscellaneous

The FCA is also making a technical correction in § 612.2150(b)(5) to clarify the meaning of the regulation.

List of Subjects in 12 CFR Part 612

Agriculture, Banks, banking, Conflict of interests, Rural areas.

For the reasons stated in the preamble, part 612 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 612—PERSONNEL ADMINISTRATION

1. The authority citation for part 612 is revised to read as follows:

Authority: Secs. 5.9, 5.17, 5.19 of the Farm Credit Act; 12 U.S.C. 2243, 2252, 2254.

Subpart A—[Removed]

2. Subpart A, consisting of §§ 612.2000 through 612.2110, and the subpart heading are removed in their entirety.

Subpart B—[Amended]

3. The heading of subpart B is removed.

§ 612.2150 [Amended]

4. Section 612.2150 is amended by removing the word "of" the third place it appears, and adding in its place, the word "or" in the first sentence of paragraph (b)(5).

Dated: June 10, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-13961 Filed 6-15-92; 8:45 am]

BILLING CODE 6705-01-M

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12 CFR Part 615

RIN 3052-AB18

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations

AGENCY: Farm Credit Administration.

ACTION: Proposed suspension of rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), proposes for public comment the temporary suspension, for a period of 2 years, of certain provisions of the regulations governing the computation of permanent capital ratios of Farm Credit System (System) institutions. The effect of the suspension would be to permit Farm Credit Banks and direct lender associations, for the succeeding 2 years, to determine whether, and to what extent, an association's investment in a Farm Credit Bank is deducted from the assets of the association in the computation of the permanent capital ratio.

DATES: Comments must be received by July 16, 1992.

ADDRESSES: Comments should be submitted in writing, in triplicate, to Jean Noonan, General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Robert S. Child, Senior Credit Specialist, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444, or

Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: On September 28, 1988, the Board adopted final regulations amending 12 CFR part 615 that, among other things, established minimum permanent capital standards for System institutions. Those regulations implemented section 301(a) of the Agricultural Credit Act of 1987 (1987 Act), Public Law 100-233, which directed the FCA to issue regulations under section 4.3(a) of the Farm Credit Act of 1971 (1971 Act), 12 U.S.C. 2001 *et seq.* Section 4.3(a) requires the FCA to cause System institutions to achieve and maintain adequate capital by establishing minimum levels of capital for System institutions. See 53 FR 39229 (October 6, 1988).

Section 615.5210 of those regulations sets forth the method for the computation of the permanent capital ratio. Paragraph (d) provides that, for the sole purpose of computing the permanent capital ratio, certain adjustments must be made to the assets and capital of System institutions. First, where two System institutions own stock in each other, an amount equal to the smaller of the two investments must be eliminated from the assets and total capital of both institutions.

Second, after the elimination of the reciprocal stock investments, the so-called "double-counted capital" must be eliminated in such a way that it is included in the capital of only one institution. The "double-counted

capital" represents a direct lender association's investment in a Farm Credit Bank and consists of purchased stock and distributed equities. (The investment is referred to as "double-counted capital" because, prior to 1989, it was included in the assets and capital of both the bank and the direct lender association. This gave the impression that there was a greater amount of capital in some institutions than there actually was.) Traditionally, banks have made non-cash patronage distributions to direct lender associations while retaining cash at the bank level. The "double-counted capital" is required by § 615.5210(d) to be treated, for the purpose of computation of the permanent capital ratio, as follows:

1. Paragraph (d)(2)(i)

This provision states that, until January 1, 1993, each Farm Credit Bank shall, with the agreement of a majority of the direct lender associations in its district, adopt a districtwide plan specifying a percentage allocation of an association's investment in the bank between the bank and the association. The bank and associations are permitted to amend the plan each year. In the event that the bank and the associations are unable to reach agreement on the allocation, the direct lender associations' investments are allocated 20 percent to the bank and 80 percent to the associations.

2. Paragraph (d)(2)(ii)

This provision states that, beginning January 1, 1993, and thereafter, all equities of a Farm Credit Bank that were purchased by direct lender associations must be allocated to the bank.

3. Paragraph (d)(2)(iii)

This provision sets forth a phase-in period for the allocation of equities distributed by a Farm Credit Bank to direct lender associations. The phase-in period is to commence on January 1, 1993, and specifies the minimum percentage of distributed equities that must be allocated to the banks. In 1993, banks and associations are permitted to allocate up to 100 percent of the distributed equities to the association; the permissible allocation to the association decreases by 20 percentage points each following year until 1998. In 1998 and thereafter, all of the distributed equities must be allocated to the bank.

Since the promulgation of § 615.5210(d)(2), concerns have been expressed by some System institutions about the potential effects on the capital positions of the direct lender associations and the financial health of the System as a whole. In particular, such institutions have indicated that, in order for some direct lender associations to achieve their minimum required permanent capital levels, it may be necessary for a district bank to transfer assets to the associations either through the payment of cash dividends or the retirement of distributed equities. Both types of transportations are taxable and could therefore result in the depletion of an association's capital funds.

In addition, concern has been expressed by System institutions and others that any significant transfer of assets from Farm Credit Banks to direct lender associations may have a long-term effect on the cost of funds to the System as a whole. Most of the funds of System institutions are raised through the issuance by the Farm Credit Banks and the banks for cooperatives of Systemwide obligations. Such obligations are insured by the Farm Credit System Insurance Fund, but in the event that the Insurance Fund is ever exhausted, all of the banks are jointly and severally liable under section 4.4 of the 1971 Act to pay the principal and interest on the obligations. Therefore, the Systemwide bonds are ultimately backed by the assets of all of the System banks. However, the direct lender associations, to which the banks lend most of the funds raised through the issuance of Systemwide obligations, are not jointly and severally liable on the Systemwide obligations. It has been asserted that, once assets have been transferred by a bank to an association, they may no longer be available to pay the principal and interest on Systemwide obligations under the joint and several liability provisions. Concern has been expressed that a significant movement of capital from the Farm Credit Banks to the direct lender associations could increase the cost to the System of raising funds through the issuance of Systemwide obligations.

Because of these concerns, it is the opinion of the Board that the current regulations on the computation of a direct lender association's investment in a bank should be reexamined. Therefore, the Board proposes to delay the effect of those provisions that, commencing January 1, 1993, require part or all of a direct lender association's investment in a Farm Credit Bank to be eliminated from the capital of the associations.

The following provisions are proposed to be temporarily suspended:

1. The phrase "until January 1, 1993," in § 615.5210(d)(2)(i);

2. Section 615.5210(d)(2)(ii) in its entirety; and

3. Section 615.5210(d)2)(iii) in its entirety.

During the period these provisions are suspended, other provisions of the regulation would remain in effect. This means that a Farm Credit Bank, with the agreement of a majority of the direct lender associations in its district, could adopt a districtwide plan specifying a percentage of where the direct lender associations' investment in the bank would be counted for the purpose of computing the permanent capital ratio. In the absence of such an agreement, 20 percent of the direct investment would be allocated to the bank, and 80 percent would be allocated to the associations.

The Board further proposes that the suspension be effective for a 2-year period, commencing 30 days after it is published in the **Federal Register** during which either or both Houses of the Congress are in session. After the 2-year period expires, these provisions would automatically become effective again unless the Board has taken further action to amend them.

It is the intention of the Board to reexamine the capital regulations during the suspension period in light of the concerns described above, particularly as they relate to the safety and soundness of individual institutions and districts as well as the System as a whole.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26 of the Farm Credit Act; 12 U.S.C. 2013, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6; sec. 301(a) of Pub. L. 100–233.

Dated June 10, 1992.

Curtis M. Anderson,

Secretary,Farm Credit Administration Board.

[FR Doc. 92–13962 Filed 6–15–92; 8:45 am]

BILLING CODE 6705–01–M

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

12 CFR Part 1502

Availability of Information Under the Freedom of Information Act

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would prescribe procedures to implement the Freedom of Information Act. The Thrift Depositor Protection Oversight Board, which is an agency for the purposes of the Freedom of Information Act, is required to make available certain records pursuant to published rules and to promulgate regulations specifying a schedule of fees applicable to the processing of requests for its records. The proposed rule would set forth the kinds of information made available to the public and procedures for inspecting or obtaining documents and records of the Board.

DATES: Comments must be received on or before August 17, 1992.

ADDRESSES: Comments may be mailed to Office of General Counsel, Thrift Depositor Protection Oversight Board, 1777 F Street, NW., Washington, DC 20232.

FOR FURTHER INFORMATION CONTACT: Lawrence Hayes, telephone (202) 786–9681.

SUPPLEMENTARY INFORMATION:

Background

The Thrift Depositor Protection Oversight Board ("Board") is a corporate instrumentality of the United States, established as the "Oversight Board" by section 21A(a)(1) of the Federal Home Loan Bank Act, 12 U.S.C. 1441a(a)(1), as added by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). The Oversight Board was redesignated as the Thrift Depositor Protection Oversight Board by the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, Public Law No. 102–233, sec. 302(a), 105 Stat. 1761, 1767. The Board's principal duty is to oversee the Resolution Trust Corporation ("RTC"), also established under FIRREA, whose principal duty is to manage and resolve cases involving failing and failed thrift institutions.

Pursuant to 12 U.S.C. 1441a(a)(2), the Board is an agency of the United States for the purposes of the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, which requires agencies to publish certain materials, make certain materials available for public inspection and copying and other records available to any person in accordance with published rules, and promulgate regulations under FOIA, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests.

Proposed Rule

The proposed rule would establish regulations and procedures for the implementation of FOIA by the Board. The RTC is a mixed-ownership Government corporation that, like the Board, is an agency of the United States for the purposes of FOIA when it is acting as a corporation. The proposed rule does not apply to the RTC, and its procedures are not applicable to the publication of RTC documents or the availability of RTC records under FOIA.

Consistent with the requirements of FOIA, the proposed rule divides Board records into three major categories and provides methods under which each category of information, to the extent not exempt from disclosure, will be published or made available by the Board. The categories are: (1) Information to be published in the **Federal Register**; (2) information to be made available for public inspection and copying; and (3) information to be made available promptly to any person upon appropriate request. The proposed rule sets forth detailed procedures for the processing of requests, including procedures for appealing denials. Under the rule, requests for records created by or obtained from the RTC or another agency may be referred to the RTC or such other agency.

Consistent with FOIA, the proposed rule provides that the Board shall maintain and make available current indexes providing identifying information for the public as to any matter required by 5 U.S.C. 552(a)(2) to be made available or published. The Board believes that publication of such indexes would be unnecessary and impracticable and anticipates issuing and publishing an order to that effect when its Freedom of Information regulations are issued in final form. The Board will provide copies of any such index on request at a cost not to exceed the direct cost of duplication.

Pursuant to Executive Order 12600, the proposed rule includes a section concerning the protection of persons or entities submitting information to the Board that arguably includes material exempt from public disclosure under the fourth exemption of FOIA, 5 U.S.C. 552(b)(4), as trade secrets or commercial or financial information that is privileged or confidential. In accordance with the Executive Order, the rule establishes procedures under which such a person or entity will be notified of requests encompassing such material and, to the extent permitted by law, will be given an opportunity to object to its disclosure.

The proposed rule includes a schedule of fees for the processing of requests and procedures for determining when such fees should be waived or reduced. The schedule of fees conforms to the guidelines promulgated by the Director of the Office of Management and Budget, 52 FR 10012, March 27, 1987; and the procedures concerning the waiver or reduction of fees follow the guidance of the memorandum of the Department of Justice issued on April 2, 1987. In this connection it should be noted that § 1502.10(d)(1)(ii) of the proposed rule, which sets forth the requirement of 5 U.S.C. 552(a)(4)(A)(iv)(II) that no agency shall charge fees for certain requests for the first two hours of search time or for the first one hundred pages of duplication, also incorporates the Office of Management and Budget's guidelines on this matter by referring to the "cost equivalent" of such search time and duplication. The Office of Management and Budget guidelines provide [52 FR 10019]:

> For purposes of these restrictions on assessment of fees, the word "pages" refers to paper copies of a standard agency size which will normally be "8½ × 11" or "11 by 14." Thus, requesters would not be entitled to 100 microfiche or computer disks, for example. A microfiche containing the equivalent of 100 pages or 100 pages of computer printout, however, might meet the terms of the restriction.
>
> Similarly, the term "search time" in this context has as its basis, manual search. To apply this term to searches made by computer, agencies should determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of the search (including the operator time and the cost of operting the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, i.e., the operator, agencies should begin assessing charges for the computer search.

The proposed rule describes or refers to exemptions listed in FOIA pursuant to which agency records may be withheld from the public. In this connection, the rule makes it clear that the Board will apply the fifth exemption, 5 U.S.C. 552(b)(5), which, among other things, incorporates what has come to be known as the "deliberative process privilege," to records of the deliberations of the Board, except for the records of the Board's open meetings, which are held at least six times each year.

The Conference Report and accompanying FIRREA discusses briefly the status of the Board and the RTC as agencies for the purposes of FOIA. After noting that 5 U.S.C. 552(b)(8) specifically exempts from disclosure certain information related to the regulation and supervision of financial institutions, the Conference Report states that neither the Board nor the RTC acts as a

supervisor or regulator of insured depository institutions. H.R. Rep. No. 101–222, 101st Cong., 1st Sess. 410 (1989). In this connection, it should be noted that the proposed rule tracks or refers to all of the FOIA exemptions, including 5 U.S.C. 552(b)(8), and treats them as possibly applicable to the Board's processing of requests for records. It is the Board's intention to utilize 5 U.S.C. 522(b)(8), which specifically exempts examination reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, to withhold in appropriate circumstances examination reports and similar information forwarded to the Board by a financial institution regulatory agency. When forwarded, such information has been provided to the Board to enable it to carry out its statutory functions; and it is the position of the Board that the use of the eighth exemption in appropriate circumstances is not inconsistent with its governing statute or with the statements in the Conference Report.

Executive Order 12291

The proposed rule is not a major rule under Executive Order No. 12291.

Regulatory Flexibility Act

The Thrift Depositor Protection Oversight Board certifies that the rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The total economic impact of the rule is minimal.

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) and assigned control number 3203–0003, which expires December 31, 1994. Comments on the collections of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (Agency Code 1551), Washington, DC 20503, with copies to the Thrift Depositor Protection Oversight Board at the address previously specified.

The collections of information in this proposed rule are in §§ 1502.6, 1502.8, and 1502.10. This information is required by the Board to identify the requesters and the records sought, enable submitters of business information to apply for confidential treatment, and assure appropriate assessment and payment of fees. This information will be used to process requests for records. The likely respondents are persons or entities seeking information from records of the Board. It is not likely that persons or entities will submit confidential business information to the Board.

The total annual reporting and recordkeeping burden that will result from these collections is estimated not to exceed fifteen hours. The estimated average burden hours per response is not more than one half hour for requesters of records under §§ 1502.6 and 1502.10. The annual number of likely respondents is estimated not to exceed twenty-six, and the proposed frequency of response is on occassion.

List of Subjects in 12 CFR Part 1502

Confidential business information, Freedom of information.

For the reasons set forth in the preamble, it is proposed to amend chapter XV of title 12 of the Code of Federal Regulations by adding new part 1502 to subchapter A to read as follows:

PART 1502—AVAILABILITY OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

Sec.

1502.1 Authority, purpose, and scope.
1502.2 Definitions.
1502.3 Published information.
1502.4 Public inspection and copying.
1502.5 Specific requests for records.
1502.6 Request procedures.
1502.7 Responses to requests.
1502.8 Business information.
1502.9 Appeals.
1502.10 Fees.
1502.11 Exemptions.
1502.12 Preservation of records.

Authority: 5 U.S.C. 552; 12 U.S.C. 1441a(a)(2) and (13).

§ 1502.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued by the Thrift Depositor Protection Oversight Board (Board) pursuant to 5 U.S.C. 552 and 12 U.S.C. 1441a(a)(2) and (13).

(b) *Purpose.* This part sets forth the kinds of information made available to the public and the rules and procedures for obtaining documents and records of the Board.

(c) *Scope.* This part applies to the information and records of the Board, an instrumentality of the United States separate and distinct from the Resolution Trust Corporation (RTC); and this part does not govern or set forth procedures for the implementation of the Freedom of Information Act by the RTC. This part explains:

(1) The kinds of information which the Board is required to publish in the **Federal Register**;

(2) The kinds of records made available to the public on request;

(3) The kinds of information made exempt from disclosure;

(4) The procedures for obtaining records and for processing requests;

(5) The schedule of fees for processing requests; and

(6) The procedures for appealing denials of requests for information.

§ 1502.2 Definitions.

As used in this part, the following terms shall have the following meanings:

(a) *Agency* has the meaning given in 5 U.S.C. 551(a) and 5 U.S.C. 552(e).

(b) *Appeal* means the administrative appeal by a requester of an adverse initial determination on a request for records, as described in 5 U.S.C. 552(a)(6)(A)(ii).

(c) *Business information* means trade secrets and commercial or financial information provided to the Board that arguably is exempt from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4).

(d) *Denial* means a denial, based upon an exemption of the Freedom of Information Act, of a request for records, or a denial of a fee waiver request.

(e) *Director* means the Board's Vice President for Public Affairs or, in case of the absence or a vacancy in the office of the Vice President, the head or acting head of the Board's Office of Public Affairs.

(f) *President* means the President of the Board.

(g) *Request* except for the purposes of § 1502.10, means any request for Board records made pursuant to 5 U.S.C. 552(a)(3).

(h) *Requester* except for the purposes of § 1502.10, means any person who makes a request to the Board pursuant to 5 U.S.C. 552(a)(3).

(i) *Submitter* means any person or entity that provides business information to the Board.

§ 1502.3 Published information.

(a) Subject to the exemptions described or referred to in § 1502.11 and to paragraph (b) of this section, pursuant to 5 U.S.C. 552(a)(1) the Board shall separately state and currently publish in the **Federal Register** for the guidance of the public:

(1) Descriptions of its organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain

information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which such forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Board; and

(5) Each amendment, revision, or repeal of the foregoing.

(b) Except to the extent that a person is not required in any matter to resort to, or be adversely affected by, a matter required to be published pursuant to paragraph (a) of this section and not so published. For the purposes of this section, matter reasonably available to the class of persons affected thereby is deemed published in the **Federal Register** when it is incorporated by reference therein with the approval of the Director of the Federal Register.

§ 1502.4 Public inspection and copying.

(a) Subject to the exemptions described or referred to in § 1502.11 and to paragraphs (b), (d), and (e) of this section, the Board shall make available for public inspection or copying:

(1) Final opinions of the Board, including concurring and dissenting opinions, as well as orders of the Board, made in the adjudication of cases;

(2) Those statements of policy and interpretations which have been adopted by the Board and are not published in the **Federal Register**; and

(3) Administrative staff manuals and instructions of the Board to staff that affect a member of the public.

(b) To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Board may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. In each case, however, the justification for the deletion shall be explained in writing. The Director is authorized to act for the Board in implementing this paragraph.

(c) The Board shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated and required by this section to be made available or published. The Board shall provide copies of such an index on request at a cost not to exceed the direct cost of duplication.

(d) A final order, opinion, statement of policy, interpretation, or staff manual or instruction described in paragraph (a) of this section that affects a member of the public may be relied on, used, or cited as precedent by the Board against a party other than an agency only if such document has been indexed and made available pursuant to this section or the party has actual and timely notice of the terms of the document.

(e) Applications to inspect or copy records of the Board that are made available in accordance with paragraphs (a) and (c) of this section shall be made to the Board's Office of Public Affairs, 1777 F Street, NW., Washington, DC 20232.

§ 1502.5 Specific requests for records.

(a) Except with respect to the records made available pursuant to § 1502.3 and § 1502.4, and subject to the application of the exemptions in § 1502.11, the Board, upon any request for records that reasonably describes such records and complies with this part, shall make such records promptly available to any person.

(b) Records exempt from disclosure to the public pursuant to 5 U.S.C. 552(b), as described in § 1502.11, may be released if the President or the Board's General Counsel determines that disclosure is in the public interest, provided that such disclosure is not prohibited by statute, regulation, or order.

§ 1502.6 Request procedures.

(a) *Written requests.* Except as provided in paragraph (d) of this section, each request for Board records shall be made in writing, signed by or on behalf of the person making the request, and state that the request is made pursuant to the Freedom of Information Act, 5 U.S.C. 552, or this part. Requests shall be submitted to the Board's Office of Public Affairs, 1777 F Street, NW., Washington, DC 20232. The Director is authorized to act for the Board under this section.

(b) *Description of records and form of request.* (1) Each request for records must describe the records sought in reasonably sufficient detail to enable a Board employee who is familiar with the subject matter to locate the records with a reasonable amount of effort. A request for a specific category of records shall be regarded as fulfilling this requirement if it enables responsive records to be identified by a technique or process that is not unreasonably burdensome or disruptive of the Board's operations. Whenever possible, a request should include specific information about each record sought, such as the date, title, name, author, recipients, and subject matter of the record. If a request does not reasonably describe the records sought, the requester shall be advised what additional information is needed or why the request is insufficient. The requester shall also be given an opportunity to confer with Board staff with the objective of reformulating the request in a manner that will meet the requirements of this section.

(2) Both the envelope and the written request should be clearly marked "Freedom of Information Act Request." Each request shall include:

(i) The name and address of the person filing the request, and the telephone number, if any, at which the requester can be reached during normal business hours;

(ii) The title of any case in litigation to which the request relates, the court, and the nature of the case;

(iii) Whether the requested information is intended for commercial use, and whether the requester is an educational institution, noncommercial scientific institution, or news media representative, employing the definitions in § 1502.10(a);

(iv) A statement indicating the requester's wish to have a copy of a record; or a statement that the requester wishes to inspect a record before copying; and

(v) A statement agreeing to pay applicable fees or a fee waiver request that complies with § 1502.10.

(c) *Returned requests.* The Board need not accept or process a request that is not a request for identifiable records, does not comply with the requirements of paragraphs (a) and (b) of this section, or can be complied with only by designing an information retrieval system. The Board may return such a request, specifying the defects, and the requester may submit a corrected request, which shall be treated as a new request. If a request would require the generation of new documents or files or the creation or editing of a database, it will be returned as a request for which there are no responsive Board records.

(d) *Oral requests.* The Board may honor an oral request for Board records, but if the requester is dissatisfied with the Board's response and wishes to obtain further consideration, the requester must submit a written request, which shall be treated as an initial request.

(e) *Advance payment of fees.* Whenever the Board requires payment of any fee pursuant to § 1502.10(h)(1) or (2), the requester shall promptly remit the required payment to the Board as a

condition to further processing of the request.

(f) *Date of receipt.* A request shall be considered as received for the purposes of this part when:

(1) A request that satisfies the requirements of paragraphs (a) and (b) of this section is received by the Office of Public Affairs; and

(2) If payment has been required under paragraph (e) of this section, payment is received from the requester.

§ 1502.7 Responses to requests.

(a) *Authority to grant or deny requests.* The Director is authorized to grant or deny any request for a Board record and to act for the Board under this section.

(b) *Determination.* Pursuant to 5 U.S.C. 552(a)(6)(A)(i), the Director's determination whether or not to comply with a request shall be made within ten days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of the request unless such time limit is extended pursuant to 5 U.S.C. 552(a)(6)(B) or agreement with the requester.

(c) *Notice of determination.* The Director shall immediately notify the requester in writing of the determination whether or not the Board will comply with a request. If a request is granted in whole or in part, the notice shall describe the manner in which a record will be disclosed, whether by providing a copy of the record to the requester or by making a copy of the record available to the requester for inspection at a reasonable time and place, and any fees to be charged in accordance with § 1502.10. If a request is denied in whole or in part, the notice shall include a brief statement of the reason or reasons for the denial, including the exemption or exemptions relied upon, and inform the requester of the requester's right to appeal to the Board pursuant to § 1502.9.

(d) *Referrals.* To the extent that a request is for records that were created by or obtained from the RTC or another agency, the Board may refer the request to the RTC or such other agency for determination and a direct response to the requester. The Board shall promptly give written notice of such referral to the requester.

(e) *Classified information.* Whenever a request is made for a record containing information that has been classified or that may be eligible for classification by another agency under the provisions of Executive Order 12356 (3 CFR, 1982 Comp., p. 166) or other Executive Order concerning the classification of records, the Board shall refer the responsibility for responding to the request to the agency that classified the information or should consider classifying the information.

(f) *Unlocated or destroyed records.* If a requested record cannot be located from the information supplied, or is known or believed to have been destroyed or otherwise disposed of, the Director shall notify the requester in writing.

§ 1502.8 Business information.

(a) *General.* Business information provided to the Board by a submitter shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this seciton. The President, the Director, or such other officer as the Board may designate, with the advice of the General Counsel to the Board, may act for the Board under this section.

(b) *Submission and request for confidential treatment.* (1) Any submitter of information to the Board who desires that it be afforded confidential treatment pursuant to 5 U.S.C. 552(b)(4) shall file an application for confidential treatment with the Board at the time the information is submitted or within a reasonable time thereafter.

(2) Each application for confidential treatment shall state in reasonable detail the facts and arguments supporting the application and its legal justification. Conclusory statements that particular information would be useful to competitors or would impair sales, or similar statements, generally will not be considered sufficient to justify confidential treatment.

(3) The submitter should clearly designate as "Confidential" all material for which confidential treatment is desired and separate it from other information in the submission.

(4) Applications for confidential treatment of any documents shall be considered in connection with a request for access to the documents. At their discretion, the Board, the President, or the Director may approve or disapprove an application for confidential treatment prior to a request for access to the documents.

(c) *Notice to submitters.* Except as provided in paragraph (h) of this section and to the extent permitted by law, the Board shall give prompt written notice to a submitter of a request or appeal encompassing business information provided to the Board by the submitter if:

(1) The submitter has designated the information as confidential pursuant to paragraph (b) of this section within ten years prior to the date of the request; or

(2) The Board has reason to believe that disclosure of the information may reasonably be expected to cause substantial competitive harm to the submitter.

(d) *Opportunity to object.* Through the notice described in paragraph (c) of this section, the Board shall afford the submitter or its designee a reasonable period of time within which to object to disclosure and state grounds for such objection. Such statement shall specify all grounds for withholding any of the information under any exemption of the Freedom of Information Act and, in the case of Exemption 4, 5 U.S.C. 552(b)(4), shall demonstrate why the information is contended to be a trade secret or commercial or financial information that is priviledged or confidential. Whenever possible, the statement should be supported by a certification by the submitter or an authorized representative of the submitter that the information has been treated as confidential by the submitter and has not been disclosed to the public. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the Freedom of Information Act.

(e) *Notice to requester.* At the same time that the Board notifies the submitter, the Board shall also notify the requester that the request is subject to the provisions of this section and that the submitter is being notified of the request.

(f) *Notice of intent to disclose.* (1) The Board shall consider carefully a submitter's objections and grounds for nondisclosure prior to deciding whether to disclose business information. If the Board decides to disclose business information over the objection of a submitter, the Board shall forward to the submitter a written notice, which shall include:

(i) A statement of the reasons for which the submitter's disclosure objections were not sustained;

(ii) A description of the business information to be disclosed; and

(iii) A specified disclosure date.

(2) Such notice of intent to disclose shall, to the extent permitted by law, be forwarded to the submitter a reasonable number of days prior to the specified disclosure date, and a copy of the notice shall be forwarded to the requester at the same time.

(g) *Notice of lawsuit.* Whenever a requester brings suit seeking to compel disclosure of business information, the Board shall promptly notify the submitter.

(h) *Exceptions to notice requirements.* The notice requirements of paragraph (c) of this section shall not apply if:

(1) The Board determines that the information shall not be disclosed;

(2) The information has been published or officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous; except that, in such case, the Board shall provide the submitter with written notice of any final administrative decision to disclose information within a reasonable number of days prior to a specified disclosure date.

§ 1502.9 Appeals.

(a) *Appeal to the Board.* When a request has been denied in whole or in part, or when the Board fails to respond to a request within the time limits set forth in the Freedom of Information Act, the requester may appeal the denial of the request or fee waiver request to the Board within thirty days of receipt of a notice of denial. An appeal to the Board shall be made in writing and shall be addressed to the President, Oversight Board, 1777 F Street, NW., Washington, DC 20232. Both the envelope and the letter of appeal itself should be clearly marked "Freedom of Information Act Appeal."

(b) *Untimely appeals.* The Board may consider an untimely appeal if:

(1) It is accompanied by a written request for leave to file an untimely appeal; and

(2) The President determines, within the President's discretion and for good and substantial cause shown, that the appeal should be considered.

(c) *Action on appeals.* The President or such other officer as the Board may designate, with the advice of the General Counsel, shall act on behalf of the Board on appeals under this section, but no officer who has denied a request or application for a waiver or reduction in fees shall act on the appeal from that denial. The Board shall make a determination with respect to an appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal unless such time limit is extended pursuant to 5 U.S.C. 552(a)(6)(B) or agreement with the requester.

(d) *Form of action on appeal.* The disposition of an appeal shall be in writing and shall constitute final Board action on the request and appeal. A decision affirming in whole or in part the denial of a request shall include a brief statement of the reason or reasons for the affirmance and a statement that judicial review of the denial is available in the United States District Court for the judicial district in which the requester resides or has his principal place of business, the judicial district in which the requested records are located, or in the District of Columbia. If the denial of a request is reversed on appeal, the requester shall be so notified, and the request shall be processed promptly in accordance with the decision on appeal.

§ 1502.10 Fees.

(a) *Definitions.* For the purposes of this section:

(1) *Commercial use* in the context of a request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or a person on whose behalf the request is made, which can include furthering those interests through litigation. In determining whether a requester properly belongs in this category, the Board must determine the use to which a requester will put the documents requested. If the Board has reasonable cause to doubt the stated use, or if that use is not clear from the request itself, the Board will seek additional clarification before assigning the request to a specific category.

(2) *Direct costs* means those expenditures which the Board actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a request. Direct costs include, for example, the salary of an employee performing work to respond to a request (the basic rate of pay for the employee plus a factor of 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Overhead expenses, such as the costs of space and heating or lighting the facility in which the records are stored, are not included in direct costs.

(3) *Duplication* refers to the process of making a copy of a document necessary to respond to a request. Such copies may take the form of paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others. A copy shall be in a form that is reasonably usable by a requester.

(4) *Educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education that operates a program or programs of scholarly research.

(5) *Fee waiver request* means a request for the waiver or reduction of a fee charged for processing a request.

(6) *News* means information that is about current events or that would be of current interest to the public.

(7) *Noncommercial scientific institution* refers to an institution that is not operated on a commercial basis and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(8) *Representative of the news media* refers to any person that is actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. Examples of news media entities include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of periodicals, but only in those instances when they can qualify as disseminators of news, who make their products available for purpose or subscription by the general public. Freelance journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through the organization, even though not actually employed by it. A publication contract would be the clearest proof, but the Oversight Board may also look to the past publication record of a requester in making this determination.

(9) *Request* means a request for records pursuant to 5 U.S.C. 552(a)(2) or 5 U.S.C. 552(a)(3).

(10) *Requester* means a person who makes a request to the Board pursuant to 5 U.S.C. 552(a)(2) or 5 U.S.C. 552(a)(3).

(11) *Review* refers to the process of examining documents located in response to a request that is for a commercial use to determine whether any portion of the document may be withheld. It also includes processing documents for disclosure, e.g., doing all that is necessary to excise portions and otherwise prepare the document for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(12) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Such activity is separate from review.

(b) *General.* (1) The Board's fees for the processing of requests shall recover

the direct costs of search, duplication, or review in accordance with the following:

(i) Fees for the processing of requests shall be limited to reasonable standard charges for document search, duplication, and review when records are requested for commercial use.

(ii) Fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution whose purpose is scholarly or scientific research or by a representative of the news media.

(iii) Fees for other requesters shall be limited to reasonable standard charges for document search and duplication.

(iv) No fee shall be charged if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee.

(v) Fees shall be assessed according to the schedule in paragraph (c) of this section; and all fees so assessed shall be charged to the requester except to the extent that the charging of fees is limited under paragraph (d) of this section or unless a waiver or reduction of fees is granted under paragraph (e) of this section.

(vi) Requests from record subjects for records about themselves, which are filed in Board systems of records, will be charged under the fee provisions of the Privacy Act of 1974 (5 U.S.C. 552a), which permit fees only for reproduction or duplication of records.

(2) Except as otherwise specifically provided, the Director is authorized to act for the Board under this section.

(c) *Assessment of fees.* In responding to requests, the following fees shall be assessed, unless a waiver or reduction of fees has been granted pursuant to paragraph (e) of this section:

(1) *Search.* (i) No search fee shall be assessed with respect to requests by educational institutions, noncommercial scientific institutions, and representatives of the news media. Search fees shall be assessed with respect to all other requests, subject to the limitations of paragraph (d) of this section. The Board may assess fees for time spent searching even if records cannot be located or if records located are subsequently determined to be entirely exempt from disclosure.

(ii) The fee assessed for other than computer searches shall be $3.25 for each quarter hour spent by clerical personnel in searching for and retrieving a requested record. If a search and retrieval requires the use of professional or managerial personnel, the fee assessed for other than computer searches shall be $7.00 for each quarter hour spent by such professional or managerial personnel.

(iii) For computer searches that may be undertaken through the use of existing programming, the requester shall be assessed the actual direct costs of the search. This shall include the cost of operating a processing unit for that portion of operating time that is directly attributable to searching for records responsive to the request as well as the costs of operator/programmer salary apportionable to the search. The Board is not required to alter or develop programming to conduct a search.

(2) *Duplication.* Duplication fees shall be assessed with respect to all requesters, subject to the limitations of paragraph (d) of this section. For a paper photocopy of a record, the fee shall be $0.10 per page. For copies produced by computer, such as tapes or printouts, a requester shall be charged the actual direct costs of such copy, including operator time. For other methods of duplication, requesters shall be charged the actual direct costs of duplicating a record.

(3) *Review.* (i) Commercial use requesters shall be assessed for review at the initial administrative processing level at the rates set forth in paragraph (c)(1)(ii) of this section.

(ii) No charge shall be assessed for review at the administrative appeal level of an exemption already applied. Records or portions of records withheld pursuant to an exemption that is subsequently determined not to apply may be reviewed again, however, to determine the applicability of exemptions not previously considered. The costs of such a subsequent review are assessable at the rates set forth in paragraph (c)(1)(ii) of this section.

(4) *Other services.* Applications for other services and materials that are not required by or subject to the Freedom of Information Act are chargeable at the actual cost to the Board. These include, but are not limited to:

(i) Certifying that records are true copies; and

(ii) Sending records to the requester by special methods such as express mail or messenger.

(5) *Use of private contractors.* The Board, not acting by delegated authority, may authorize contracting with private sector contractors for the services of locating, reproducing, and disseminating records in response to requests if the Board determines that such functions may be performed more efficiently and for less cost through private sector contractors. In such case, a requester shall be charged the actual costs to the Board for the services furnished with respect to the request, provided, however, that in no event shall the requester be charged more than what the Board would have charged if it had performed such services itself.

(d) *Limitations on charging fees.* Except for requesters seeking records for a commercial use, as defined in paragraph (a)(1) of this section, the Board shall provide without charge:

(1) The first 100 pages of duplication, or its cost equivalent; and

(2) The first two hours of search, or its cost equivalent.

(2) *Waiver or reduction of fees.* (1) Records responsive to a request shall be furnished without charge or at a charge reduced below that established under paragraph (c) of this section if the Board determines, based upon information provided by a requester in support of a fee waiver request or otherwise made known to the Board, that:

(i) Disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and

(ii) Disclosure is not primarily in the commercial interest of the requester.

(2) In order to determine whether the requirement set forth in paragraph (e)(1)(i) of this section is met, the Board shall consider the following four factors in sequence:

(i) Whether the subject of the requested records concerns the operations or activities of the government;

(ii) Whether the disclosure is likely to contribute to an understanding of government operations or activities;

(iii) Whether the disclosure of the requested information will contribute to public understanding; and

(iv) Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(3) In order to determine whether the requirement set forth in paragraph (e)(1)(ii) of this section is met, the Board shall consider the following two factors in sequence:

(i) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and

(ii) Whether the magnitude of an identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(4) If only a portion of the requested records satisfies the requirements of paragraphs (e)(1)(i) and (e)(1)(ii) of this section, a waiver or reduction shall be granted only as to that portion.

(5) Fee waiver requests shall be considered on a case-by-case basis. A fee waiver request shall address each of the factors listed in paragraphs (e)(2) and (3) of this section as they apply to each request for records.

(6) Normally no charge shall be made for providing records to Federal, state, or foreign governments, international governmental organizations, or local governmental agencies or offices.

(7) In connection with any request by an employee, former employee, or applicant for employment for records for use in prosecuting a grievance or complaint of discrimination against the Board, fees shall be waived if the total charges (including charges for information provided under the Privacy Act of 1974) are $50 or less; but the Board, in its discretion, may waive fees in excess of that amount.

(8) Appeals from denials of fee waiver requests shall be decided in accordance with § 1509.2(a) and the criteria set forth in paragraph (e)(1) of this section by an official authorized to decide appeals from denials of requests for records. Such appeals shall be addressed in writing to the Board within thirty days after receipt of a denial of a fee waiver request; both the envelope and the letter of appeal itself should be clearly marked "Fee Waiver Request Appeal."

(f) *Notice of anticipated fees in excess of $25.00.* If the Board determines or estimates that the fees to be assessed under this section may amount to more than $25.00, the Board shall notify the requester as soon as practicable of the actual or estimated amount of the fees, unless the requester has agreed in advance to pay fees as high as those anticipated. If a requester is notified that actual or estimated fees may exceed $25.00, the request shall be deemed not to have been received until the requester has agreed to pay the anticipated total fee. A notice to the requester pursuant to this paragraph (f) shall offer the opportunity to confer with Board staff for the purpose of reformulating the request to meet the requester's needs at a lower cost.

(g) *Aggregating request.* If the Board reasonably believes that a requester or group of requesters acting in concert is attempting to divide a request into a series of requests for the purpose of evading the assessment of fees, the Board may aggregate any such requests and charge accordingly. It is considered reasonable for the Board to presume that multiple requests for clearly related documents made within a thirty day period have been made in order to evade fees. Multiple requests for unrelated documents will not be aggregated.

(h) *Advance payments.* (1) If the Board estimates that a total fee to be assessed under this section is likely to exceed $250.00, it may require the requester to make an advance payment of an amount up to the entire estimated fee before beginning to process the request, unless it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(2) If a requester has previously failed to pay a records access fee within thirty days of the date of billing, the Board may require the requester to pay the full amount owed, plus any applicable interest, as provided for in paragraph (i) of this section, and to make an advance payment of the full amount of any estimated fee before the Board begins to process a new request or continues to process a pending request from that requester.

(3) For requests other than those described in paragraphs (h) (1) and (2) of this section, the Board shall not require the requester to make an advance payment. Payment owed for work already completed is not an advance payment.

(4) If the Board requires a payment under paragraph (h) (1) or (2) of this section, the administrative time limits prescribed in 5 U.S.C. 552(a)(6) for the processing of an initial request or an appeal, and the permissible extensions of such limits, shall be deemed not to begin to run until the Board has received payment of the assessed fee.

(i) *Form of payment.* Payment of fees shall be made by check or money order payable to the Treasurer of the United States. The payment shall be forwarded to the Board.

(j) *Other statutes specifically providing for fees.* The fee schedule in this section does not apply with respect to the charging of fees under a statute specifically providing for setting the level of fees for particular types of records.

§ 1502.11 Exemptions.

(a) *General.* Pursuant to 5 U.S.C. 552(b), the disclosure requirements of 5 U.S.C. 552 and this part do not apply to certain matters which are:

(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and that are in fact properly classified pursuant to such Executive Order;

(2) Related solely to the internal personnel rules and practices of the Board;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Board, including, but not limited to, records of deliberations of the Board other than meetings held pursuant to 12 U.S.C. 1441a(a)(10);

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished only by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) *Other law enforcement records.* The Board may also withhold disclosure of records pursuant to 5 U.S.C. 552(c).

(c) *Segregable portions of record.* Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt. Reasonably segregable nonexempt portions of a record are those:

(1) Whose meaning is not distorted by deletion;

(2) That are sufficient to be intelligible and useful to the requester; and

(3) From which a skillful and knowledgeable person could not reconstruct any exempt information.

(d) *Computer information.* Information stored in a computer that can be segregated only by creating an information retrieval program is not considered reasonably segregable.

§ 1502.12 Preservation of records.

The Board shall preserve all correspondence relating to the requests it receives under this part, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to title 44 of the United States Code. Under no circumstances shall records be destroyed while they are the subject of a pending request, appeal, or lawsuit under the Freedom of Information Act.

Peter H. Monroe,

President.

[FR Doc. 92-13905 Filed 6-15-92; 8:45 am]

BILLING CODE 2222-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-52-AD]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This docuemnt proposes the adoption of a new airworthiness directive (AD) that is applicable to all Airbus Industrie Model A320 series airplanes. This proposal would require a revision to the FAA-approved Airplane Flight Manual (AFM) to prohibit automatic landings in configuration 3. This proposal is prompted by a report that during an automatic landing in configuration 3, a pitch-up due to activation of the spoilers could result in an excessive attitude, if not immediately counteracted by the flight crew. The actions specified by the proposed AD are intended to prevent tail strikes and damage to the airplane.

DATES. Comments must be received by July 28, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-52-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-52-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-52-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Airbus Industrie Model A320 series airplanes. The DGAC advises that during an automatic landing in configuration 3, a pitch-up due to activiation of the spoilers could result in an excessive attitude, if not immediately counteracted by the flight crew. This condition, if not corrected, could result in tail strikes and damage to the airplane.

The DGAC Issued French Airworthiness Directive 91-061-016(B) to require verification that the Airplane Flight Manual (AFM) does not permit automatic landings in configuration 3 in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA Informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a revision to the FAA-approved Airplane Flight Manual (AFM) to prohibit automatic landings in configuration 3.

The FAA estimates that 36 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 0.5 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $990. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evalution prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 92–NM–52–AD.

Applicability: Model A320 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent tail strikes and damage to the airplane, accomplish the following:

(a) Within 60 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM: "Use of automatic landing in configuration 3 (CONF 3) is prohibited."

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 29, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–14080 Filed 6–15–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–NM–50–AD]

Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A, and –300A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes. This proposal would require replacement of certain braking system anti-skid control boxes; an operational test of the anti-skid control box; and an anti-skid braking system integrity test. This proposal is prompted by a report indicating that a malfunctioning integrated circuit board in the braking system anti-skid control box, combined with a single item failure, can cause loss of normal braking. The actions specified by the proposed AD are intended to prevent the loss of normal braking during ground operations.

DATES: Comments must be received by August 3, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–50–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–50–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–50–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority, which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist

on certain British Aerospace Model 146–100A, –200A, and –300A series airplanes. The Civil Aviation Authority advises that a report has been received indicating that, during a pre-delivery check, a malfunctioning integrated circuit board in the braking system anti-skid control box, combined with a single item failure, resulted in a loss of normal braking. A recent investigation by the manufacturer has revealed that a certain integrated circuit board, while meeting specifications, may operate incorrectly, due to a voltage spike caused by selecting the anti-skid system "on", when combined with a failure in another integrated circuit board. If uncorrected, this condition could result in the loss of normal braking during ground operations. (If loss of all normal braking occurs, limited emergency braking would still be available.)

British Aerospace has issued BAe 146 Service Bulletin SB 32–124–70491A&B, Revision 1, dated November 25, 1991, which describes procedures for replacement of certain landing gear braking system anti-skid control boxes; an operational test of the anti-skid control box; and an anti-skid braking system integrity test. The original integrated circuit, from one manufacturing source, was susceptible to voltage spikes, and was removed from all existing control boxes by British Aerospace and the parts manufacturer. The new replacement control boxes are designed so as to provide protection against voltage spikes for all current and future fits of integrated circuits from all sources. The Civil Aviation Authority classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Civil Aviation Authority has kept the FAA informed of the situation described above. The FAA has examined the findings of the Civil Aviation Authority, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacement of certain landing gear braking system anti-skid control boxes; an operational test of the anti-skid control box; and an anti-skid braking system integrity test. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 70 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1.5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be provided by British Aerospace at no charge to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,775. This total cost figure assumes that no operator has yet accomplished the proposed requirements for this AD.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 92–NM–50–AD.

Applicability: Model BAe 146–100A series airplanes, Constructor's Nos. E1002 and subsequent; Model BAe 146–200A series airplanes, Constructor's No. E2008 and subsequent; and Model BAe 146–300A series airplanes, Constructor's Nos. E3118 and subsequent; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of normal braking during ground operations, accomplish the following:

(a) For airplanes having pre-Modification MCM00716B configuration: Within 6 months after the effective date of ths AD, remove the anti-skid control box, and install a new anti-skid control box, Modification HCM70491A; and perform an operational test on the anti-skid control box; in accordance with British Aerospace BAe 146 Service Bulletin SB 32–124–70491A&B, Revision 1, dated November 25, 1991.

(b) For airplanes having post-modification HCM00716B configuration: Within 6 months after the effective date of this AD, remove the anti-skid control box, and install a new anti-skid control box, Modification HCM70491B; and perform an anti-skid braking system integrity test; in accordance with British Aerospace BAe 146 Service Bulletin SB 32–124–70491A&B, Revision 1, dated November 25, 1991.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 1, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–14066 Filed 6–15–92; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 92-NM-88-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9 Series Airplanes, Model DC-9-80 Series Airplanes, and Model MD-88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9 and DC-9-80 series airplanes, and Model MD-88 airplanes, that currently requires installation of a new girt bar flap and firing line in the evacuation slide system, and modification of the valise. This action would require modification of the previously installed girt bar flap or installation of a new girt bar flap and firing line, and modification of the valise, as applicable. This proposal is prompted by a report that an improperly installed girt bar in the airplane floor fittings could render the inflation handle inaccessible after slide deployment from the airplane or inhibit the opening of the emergency exit door. The actions specified by the proposed AD are intended to prevent obstruction or hindrance of the emergency evacuation of the airplane and possible injuries to the passengers and the crew.

DATES: Comments must be received by August 3, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-88-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from BFGoodrich Company, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Gfrerer, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM-131L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5338; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-88-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-88-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

On February 17, 1991, the FAA issued AD 91-06-10, Amendment 39-6929 (56 FR 9838, March 8, 1991), which is applicable to McDonnell Douglas Model DC-9 and DC-9-80 series airplanes, and Model MD-88 airplanes, equipped with certain BFGoodrich evacuation slides. That AD requires installation of a new girt bar flap and firing line on the evacuation slide system, and modification of the valise. That action was prompted by reports of incidents of inadvertent in-flight inflations of the evacuation slides. The requirements of that AD are intended to prevent obstruction or hindrance of the emergency evacuation of the airplane and possible injuries to the passengers and the crew.

Since the issuance of that AD, the FAA has been advised by a number of operators that it is possible to improperly install the slide girt bar in the airplane floor fitting, if slides have been modified in accordance with the requirements of AD 91-06-10. Improper installation of the slide girt bar could render the inflation handle inaccessible after slide deployment and could inhibit the opening of the emergency exit door. This condition, if not corrected, could obstruct and hinder the emergency evacuation of the airplane, and could result in injuries to passengers and crew.

The FAA has reviewed and approved BFGoodrich Service Bulletin 11331-25-248, dated April 15, 1992, that describes procedures for installation of a new designed girt bar flap and firing line, and modification of the valise. The new design of the flap and firing line precludes the possibility of improper installation. For units that were previously modified (in accordance with AD 91-06-10), this service bulletin also describes procedures for modification of the girt bar flap.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 91-06-10, to require modification of the previously installed girt bar flap or installation of a new girt bar flap and firing line, and modification of the valise, as applicable. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 3,150 slides of the affected design installed on McDonnell Douglas Model DC-9 series, Model DC-9-80 series, and Model MD-88 airplanes in the worldwide fleet. The FAA estimates that 800 airplanes of U.S. registry would be affected by this proposed AD. Each airplane is equipped with two slides, for a total of 1,600 affected slides.

For airplanes equipped with slides having detachable girts on which the modifications required previously by AD 91-06-10 have not yet been accomplished, it would take approximately 2.25 work hours per slide to accomplish the proposed actions, at an average labor rate of $55 per hour. Required parts would cost approximately $355 per slide. Based on these figures, the cost for accomplishing this proposed action would be approximately $479 per slide, or $958 per airplane.

For airplanes equipped with slides having fixed girts on which the modifications required previously by AD 91-06-10 have not yet been accomplished, it would take approximately 6.25 work hours per slide

to accomplish the proposed actions, at an average labor rate of $55 per hour. Required parts would cost approximately $355 per slide. Based on these figures, the cost for accomplishing this proposed action would be approximately $699 per slide, or $1,398 per airplane.

For airplanes equipped with slides on which the modifications required by AD 91-06-10 have been accomplished, it would take approximatley 1 work hour per slide to accomplish the proposed actions, at an average labor rate of $55 per hour. Required parts would cost approximately $25 per slide. Based on these figures, the cost for accomplishing this proposed action would be approximately $80 per slide, or $160 per airplane.

Based on the figures discussed above, the total cost impact of the proposed AD on U.S. operators is estimated to be between $128,000 and $1,118,000. This total cost figure assumes that no operator has yet accomplished the requirements of this proposed AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-6929 (56 FR 9838, March 8, 1991), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 92-NM-88-AD. Supersedes AD 90-06-10, Amendment 39-6929.

Applicability: Model DC-9, Model DC-9-80 series airplanes, and Model MD-88 airplanes; equipped with BFGoodrich, Aircraft Evacuation Systems (formerly Sargent Industries, Pico Division; formerly Pico, Inc.) evacuation slides, P/N 11331-(-); certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent obstruction or hindrance with the emergency evacuation of the airplane and possible injuries to the passengers and the crew, accomplish the following:

(a) For airplanes on which the evacuation slides have been modified in accordance with Section 2, Accomplishment Instructions, of BFGoodrich Service Bulletin 11331-25-226, Revision 2, dated January 4, 1991: Within 9 months after the effective date of this AD, modify the girt bar flap, in accordance with Paragraph 2B of BFGoodrich Service Bulletin 11331-25-248, dated April 15, 1992.

(b) For airplanes on which the evacuation slides have not been modified in accordance with Section 2, Accomplishment Instructions, of BFGoodrich Service Bulletin 11331-25-226, Revision 2, dated January 4, 1991: Within 9 months after the effective date of this AD, install a new girt bar flap and firing line, and modify the valise, in accordance with Paragraph 2A of BFGoodrich Service Bulletin 11331-25-248, dated April 15, 1992.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 1, 1992.

Bill R. Bowell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-14076 Filed 6-15-92; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Application and Closing Out of Offsetting Long and Short Positions; Exception

AGENCY: Commodity Futures Trading Commission.

ACTION: Petition for rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has received a petition for rulemaking requesting that the Commission amend § 1.46 of its regulations, 17 CFR 1.46, to provide an additional exception to the general rule pertaining to the application, and closing out, by a futures commission merchant ("FCM") of offsetting long and short commodity futures or option positions in a customer account or option customer account. The additional exception requested by the petitioner would apply to purchases and sales of commodity futures or option contracts in error accounts, including, but not limited to, broker error accounts. The Commission is requesting comment on the proposed rule amendment as suggested by the petitioner, with certain modifications.

DATES: Comments must be submitted on or before August 17, 1992.

ADDRESSES: Comments should be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-8955.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Mary Cademartori, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 1.46(a) of the Commission's regulations generally requires that the FCM close out a customer's or option customer's previously-held short or long commodity futures or option position if an offsetting purchase or sale is made

for such customer's or option customer's account, and that an FCM furnish promptly to such customer or option customer a purchase-and-sale statement showing the financial result of the transactions involved. Section 1.46(b) generally provides that if the short or long position in the account of such customer or option customer immediately prior to the offsetting purchase or sale is greater immediately prior to the offsetting purchase or sale is greater than the quantity purchased or sold, the FCM must apply the offsetting purchase or sale to the oldest portion of the previously-held short or long position, unless the customer or option customer specifically instructs otherwise. There are currently seven exceptions to § 1.46.[1] The petitioner requests that the Commission establish an additional exception to the requirements of paragraphs (a) and (b) of § 1.46 for purchases or sales in error accounts, including, but not limited to, broker error accounts. The Commission has decided to request comment on the proposed rule amendment as suggested by the petitioner, with certain modifications.

II. Petition Excerpts

Excerpts from the petition are set forth below.

The Chicago Board of Trade hereby submits a petition to the Commodity Futures Trading Commission for rulemaking to amend the language of Commission Regulation 1.46, which concerns the application and closing out of offsetting long and short positions.

Specifically, the Exchange requests that Regulation 1.46(d) "Exceptions" be amended to include a new exception for *"purchases or sales in error accounts, including, but not limited to, broker error accounts."*

The Exchange submits that, as a practical matter, positions which have been incurred as the result of an error should be kept separate, for offset purposes, for positions which are established as part of the market participant's actual trading strategy. The proposed amendment to Commission Regulation 1.46 would facilitate this separation. [emphasis in original]

[End of Excerpts From Petition]

III. Commission Views

Error positions can arise in various circumstances. For example, a customer may have requested a buy order and a sell order gets transmitted to the floor, or the quantity requested may get misreported. In these circumstances, the FCM, associated person (AP) or floor broker (FB) responsible for the error would have to take the error position (*i.e.*, the position which the customer did not request) into its error account. If the FCM, AP or FB also has its own trading account, this could require the closing out of a position in the FCM's house account or the personal account of an AP or FB with an offsetting position in the error account.[2] Thus, a position the FCM, AP or FB intended to take could be closed out because of a transaction that resulted from an error.

The Commission believes that there may be some merit to the petition. The Commission further believes that interested persons should have an opportunity to comment upon the amendment to § 1.46 of the Commission's regulations suggested by the petitioner, with certain modifications proposed by the Commission and discussed below.

The major modification which the Commission proposes to make to the petitioner's suggested amendment is to limit the exception to error positions which are promptly closed out by the close of business the next business day. The new exception would therefore not be applicable where the "error trade" was kept open beyond the close of business the following business day. The Commission believes that if the trade represents an error then it must be closed out the next business day on or subject to the rules of a contract market, or otherwise the trade will lose its identity as an error trade and become subject to the rules applicable to any other trade and require close out against existing positions. If any commenters wish to address this issue, the Commission requests that they set forth with particularity standards to determine when a trade loses its identity as an error trade. Accordingly, the proposed § 1.46(d)(8) contains a timing requirement whereby a position in the error account must be offset by a trade on or subject to the rules of a contract market by no later than the close of business the next business day.

The Commission also wishes to clarify that offsetting positions within an error account must be offset and should not be left open. While the Commission acknowledges that positions in error accounts should be separate from positions in regular accounts, offsetting positions in error accounts are not to be specially treated. The Commission has proposed adding language to this effect to the petitioner's suggested amendment.

The Commission has also modified the petitioner's suggested amendment to permit the exception to rule 1.46 to apply to positions identified as errors but carried in an account that includes positions other than errors. The Commission understands that FCMs, APs and FBs normally establish an error account that is intended to include all of their error positions, and some exchanges require this by rule.[3] However, if a separate error account has not been established, the proposal contained herein would allow an error position identified as such when the position is established to remain open in an account despite an offsetting non-error position. The Commission also requests comment as to whether positions eligible for the exception to rule 1.46 discussed herein should be required to be carried in an error

[1] Seven types of transactions are exempt from the requirements of paragraphs (a) and (b) of § 1.46, including generally: (1) Purchases or sales of commodity options held by commercial interests in the underlying commodity, where such purchases or sales are determined by the contract market to be economically appropriate to the reduction of risks for the conduct and management of a commercial enterprise pursuant to rules of the contract market which have been adopted in accordance with the requirements of § 1.61(b) (17 CFR 1.61(b) (1991)) and approved by the Commission pursuant to Section 5a(12) of the Act; (2) Purchases or sales constituting "bona fide hedging transactions" as defined in § 1.3(z) of the Commission's regulations (17 CFR 1.3(z) (1991)); (3) Sales during the delivery period of a futures contract for the purpose of making delivery on the contract during such delivery period if such sales are accompanied by appropriate documentation (see § 1.46(d)(3)); (4) Purchases or sales made in separate accounts of a commodity pool, provided that the trading for such pool is directed by two or more unaffiliated commodity trading advisors acting independently, each of which is directing the trading of a separate trading account (see § 1.46(d)(4)); (5) Purchases or sales made by a leverage transaction merchant constituting cover of its obligations to leverage customers and made in accordance with §§ 31.18(a) and 31.12(b) of the Commission's regulations (17 CFR 31.18(a) and 31.12(b) (1991)) (see § 1.46(d)(5)); (6) Purchases or sales made in separate accounts owned by a customer or option customer, provided that each person directing trading for one of the separate accounts (one of whom may be the customer or option customer himself) is unaffiliated with and acts independently from each other person directing trading for a separate account (see § 1.46 (d)(6) and (e) (1991)); and (7) Purchases or sales made in the separate accounts of a person granted an exemption in accordance with § 150.3 of the Commission's regulations (56 FR 14308, April 9, 1991). Purchases or sales closed out during the same day (commonly known as "in-and-out trades" or "day trades") are exempt from the requirements of § 1.46(b) concerning application of offsetting purchase or sale to the oldest portion of the previously-held short or long position (see § 1.46(c)).

[2] The definition of the term "customer" under Commission Rule 1.3(k) (17 CFR 1.3(k)(1991)) provides in pertinent part that "an owner or holder of * * * a proprietary account shall * * * be deemed to be a customer within the meaning of * * * [Rule] 1.46." Thus, Rule 1.46 would apply to accounts of an FCM's AP and even the FCM's own accounts, as well as those of FBs. Further, an FCM must take into consideration positions in separate accounts of the same customer which it is carrying in applying Rule 1.46. U.S. Department of Agriculture, Commodity Exchange Authority Administrative Determination No. 134 (May 25, 1948).

[3] See *e.g.*, Chicago Mercantile Exchange Rule 527.

account, *i.e.*, an account that includes only error positions.

One purpose of § 1.46 is to ensure accurate reporting of open interest. The Commission previously expressed its concern regarding the accuracy of published open interest calculations in connection with the adoption of an amendment to § 1.46 to provide an additional exception for purchases or sales made in separate accounts owned by a customer or option customer where the trading for the customer accounts is directed by two or more unaffiliated persons acting independently, each of which is directing the trading of a separate account. In promulgating that exception to § 1.46, which was also prompted by a petition for rulemaking, the Commission revised that petitioner's suggested amendment to ensure that trades entered into by separate persons acting independently for the account of a customer are offset in an open and competitive manner on or subject to the rules of a contract market and not by means of a "transfer trade," *i.e.*, simply by means of an entry on the books of an FCM for the purpose of transferring existing trades from one account to another carried by the FCM where no change in ownership is involved.[4] Similarly, in these circumstances, the Commission believes that to permit the transfer of trades between the market participant's own trading account and the market participant's error account would cast doubt upon the "independence" of such separate accounts. Furthermore, the Commission recognizes that because each position of the market participant's accounts will be traded separately and offset separately, the amount of open interest reported for any commodity futures contract or commodity option contract traded by the market participant's own account and the market participant's error account will be greater than if all open positions in both of the market participant's accounts were offset against each other. However, the Commission believes that any increase in reported open interest will have no adverse impact since all open positions in each of the market participant's accounts must be offset, on or subject to the rules of a contract market, prior to the delivery date of a futures contract or the exercise date of a commodity option contract.[5]

[4] 49 FR 19969, 19970 (May 11, 1984).

[5] The Commission wishes to note, however, that if the FCM carrying the broker's error account or the FCM carrying the broker's own trading account sought the protection of the bankruptcy laws, the Commission might, in appropriate cases and upon application by the trustee or the affected clearing organization, permit offsetting open contracts to be liquidated, or settlement on such contracts to be made, by transfer trades. 17 CFR 190.04(d) (1991).

[6] See 47 FR 18618, 18619 (April 30, 1982).

IV. Related Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (Act), 44 U.S.C. 3501 et. seq., imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. The Commission has determined that this proposed amendment has no burden.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The direct impact of the proposed amendment to rule 1.46 affects FCMs, which have the obligation generally to close out offsetting positions and issue a purchase-and-sale statement. The Commission has previously determined that FCMs should not be considered small entities for purposes of the RFA. Specifically, the Commission found that with respect to FCMs, based upon the fiduciary nature of FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of a small entity.[6] Accordingly, the requirements of the RFA do not apply to FCMs. In addition, the Commission has determined that the proposed amendment to rule 1.46 will impact upon APs or FBs who must also close out offsetting positions. The proposed amendment does not, however, impose any additional burdens, but rather, alleviates an already existing obligation to offset certain positions in the AP's or FB's account. Therefore, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman certifies that the proposed rule amendment will not have a significant economic impact on a substantial number of small entities. Nonetheless, the Commission specifically requests comment on the impact the proposed rule amendment may have on small entities.

List of Subjects in 17 CFR Part 1

Offsetting positions, Close-out requirements, Commodity trading advisors, Commodity futures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4g, 5 and 8a of the Act, 7 U.S.C. 6g, 7 and 12a (1988), the Commission hereby proposes to amend chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 9, 12, 12a, 12c, 13a–1, 13a–2, 16, 19, 21, 23 and 24; 5 U.S.C. 552 and 552b, unless otherwise noted.

2. Section 1.46 is proposed to be amended by adding new paragraph (d)(8) to read as follows:

§ 1.46 Application and closing out of offsetting long and short positions.

* * * * *

(d) *Exceptions.* * * *

(8) Purchases or sales held in error accounts, including but not limited to floor broker error accounts, and purchases or sales identified as errors when the position is established held in accounts that contain other purchases or sales not identified as errors ("error trades"), provided that:

(i) Each error trade does not offset another error trade held in the same account;

(ii) Each error trade is offset by open and competitive means on or subject to the rules of a contract market by not later than the close of business the following day; and

(iii) No error trade is closed out by transferring such an open position to another account also controlled by that same market participant.

* * * * *

Issued in Washington, DC on June 10, 1992, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92–14026 Filed 6–15–92; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 284 and 285

[Docket No. RM88–13–000]

Brokering of Interstate Natural Gas Pipeline Capacity; Order Terminating Proposed Rulemaking

Issued June 10, 1992.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Termination order.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is terminating its proposed rulemaking regarding the brokering of interstate natural gas pipeline capacity. In Order No. 636,[1] the Commission adopted new capacity allocation regulations which require all interstate pipelines to provide for a capacity releasing mechanism to be determined during the pipeline's Order No. 636 restructuring proceeding. The capacity releasing mechanisms will replace the brokering of interstate pipeline capacity.

ADDRESSES: All requests for rehearing should refer to Docket No. RM88-13-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Sharon Dameron, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-2017.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the text of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this termination order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Order Terminating Proposed Rulemaking

Issued June 10, 1992.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

On April 4, 1988, the Commission issued a notice of proposed rulemaking (NOPR) in Docket No. RM88-13-000 regarding the brokering of interstate natural gas pipeline capacity.[2] The Commission recently issued Order No. 636 [3] which, among other things, adopted new capacity allocation regulations. These regulations provide that all interstate pipelines must provide for a "capacity releasing mechanism," to be determined during the pipeline's Order No. 636 restructuring proceeding. The capacity releasing mechanisms will replace the brokering of interstate pipeline capacity. In view of the new regulations adopted in Order No. 636, the Commission is terminating the proposed rulemaking in Docket No. RM88-13-000.

I. Discussion

In the latter part of the 1980's, the issue of whether the Commission should permit brokering of capacity rights on interstate pipelines arose, largely in the context of proposals by various interstate pipelines to become open access transporters pursuant to part 284 of the Commission's regulations. Generally, these proposals fell into two broad categories. One category included proposals whereby the interstate pipeline would permit its own capacity to be brokered; the other category included proposals for the brokering of the interstate pipeline's capacity on other pipelines.

The Commission initially declined to approve these proposals for several reasons. One reason was concern for the requirement that capacity should be made available among shippers on a first-come, first-served basis. Another reason was that both categories of proposals generally limited the benefits of brokering to a particular class of customers. A further reason was that none of the proposals involving the brokering of the pipeline's capacity on other pipelines included a method for reallocating the Account No. 858 costs (the costs of transmission and compression of gas by other pipelines). The Commission determined that approval of the proposals would restrict access to capacity by new market entrants and inhibit competition.[4]

However, the Commission recognized that there were benefits to be derived from the brokering of interstate capacity. Consequently, the Commission issued in NOPR, which proposed regulations that would apply to the brokering of capacity. Under the NOPR, an interstate pipeline that wanted to allow brokering on its system would be required to obtain a "system brokering certificate". A person seeking to broker capacity rights on a pipeline holding a system brokering certificate would be required to obtain a "blanket broker certificate". The NOPR also provided for price ceilings on brokering transactions only in those natural gas markets that were not workably competitive.

The Commission received over one hundred comments on the NOPR. In response to numerous requests during the comment period, the Commission staff held a technical conference on July 28, 1988. Subsequently, the Commission requested supplemental comments on the issues raised in the technical conference.[5]

The commenters contend that the NOPR lacks specific detail as to how capacity brokering will be implemented on the various interstate pipelines. At the technical conference, the general consensus of the industry was that the technical problems presented by the NOPR were too numerous to be ironed out. As an alternative to the NOPR, the industry participants urged the Commission to consider individual capacity brokering proposals submitted by pipelines. Subsequently, the Commission approved a number of individual capacity brokering proposals.[6]

On April 8, 1992, the Commission issued Order No. 636, which mandates the restructuring of pipeline services to provide for the unbundling of sales and transportation. In a notice issued contemporaneously with Order No. 636, the Commission instituted "restructuring proceedings" for all interstate pipelines. Among other things, Order No. 636 adopted new capacity allocation regulations which include a requirement

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[1] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under part 284 of the Commission's Regulations, Order No. 636, 59 FERC ¶ 61,030 (1992), 57 FR 13267 (April 16, 1992).

[2] Brokering of Intersate Natural Gas Pipeline Capacity, FERC Statutes and Regulations, Proposed Regulations ¶ 32,460 (1988); 53 FR 15061 (April 27, 1988); 53 FR 31885 (August 22, 1988).

[3] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under part 284 of the Commission's Regulations, Order No. 636, 59 FERC ¶ 61,030 (1992), 57 FR 13267 (April 16, 1992).

[4] Supra, n. 1 at 32,216.

[5] Brokering of Interstate Gas Pipeline Capacity: Request for Supplemental Comments, FERC Statutes and Regulations, Proposed Regulations ¶ 30,463 (1988); 53 FR 25629 (July 8, 1988); 53 FR 31885 (August 22, 1988).

[6] See e.g., Texas Eastern Transmission Corp., 48 FERC ¶ 61,248, *clarified*, 48 FERC ¶ 61,378 (1989), *order on reh'g*, 51 FERC ¶ 61,170 (1990), *order on reh'g*, 52 FERC ¶ 61,273 (1990); Columbia Gas Transmission Company, 49 FERC ¶ 61,071 (1989); Transcontinental Gas Pipe Line Corporation, 52 FERC ¶ 61,277 (1990).

that pipelines provide for a "capacity releasing mechanism." Thus, the intent of the NOPR to develop regulations which would allow pipeline capacity to be more efficiently used has been adopted in Order No. 636.

Order No. 636 provides that after a pipeline's capacity releasing mechanism goes into effect, all allocations of interstate pipeline capacity must be done under that capacity releasing mechanism.[7] Thus existing capacity brokering programs will be superseded by the capacity releasing mechanisms.

In view of the comments and supplemental comments, the information received at the technical conference, and the issuance of Order No. 636, the Commission concludes that it would not be in the public interest for the Commission to issue a final rule in this proceeding. In Order No. 636 the Commission determined that the public interest would be better served by the capacity allocation regulations adopted therein, than by capacity brokering.[8] Therefore, the Commission is terminating the instant rulemaking proceeding.

The Commission Orders:

Docket No. RM88–13–000 is terminated.

By the Commission.

Lois D. Cashell,

Secretary.

[FR 92–14108 Filed 6–15–92; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Customs Service Field Organization, Vicksburg, MS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule, solicitation of comments.

SUMMARY: This document proposes to amend the Customs Regulations governing the Customs field organization by changing the boundaries of the Port of Vicksburg, Mississippi, which lies within the South Central Region. The current port boundaries would be expanded to encompass the user fee airport at Jackson, Mississippi and the neighboring counties of Hinds, Rankin, and Madison. This change is being made to reflect the changing nature of the international trade in the area from the river to the airport.

DATES: Comments must be received on or before August 17, 1992.

ADDRESSES: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Sevice, room 2119, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Peg Reyen, Office of Workforce Effectiveness and Development, Office of Inspection and Control, U.S. Customs Service, (202) 566–8157.

SUPPLEMENTARY INFORMATION:

Background

As part of its continuing program to obtain more efficient use of its personnel, facilities and resources, and to provide better service to carriers, importers and the public, Customs proposes to amend § 101.3, Customs Regulations (19 CFR 101.3), by realigning the boundaries of the port of Vicksburg, Mississippi, in the South Central Region. The proposed expansion of the port would add the Mississippi counties of Hinds, Rankin, and Madison to the existing limits which are Warren County in Mississippi and Madison Parish is Louisiana.

The present port of Vicksburg generates little Customs activity. However, the volume of international traffic at the user fee airport at Jackson, Mississippi, which was established in 1989, has become increasingly significant. The activity in the area is not occurring within the present port limits of Vicksburg, but is at the airport and in the neighboring counties which are served by the airport. Accordingly, Customs believes that the port limits should be expanded to include the three neighboring counties and Jackson International Airport.

By including the Jackson International Airport within the limits of the port of entry, Customs will convert the status of the airport from a user fee airport to a landing rights airport. Through this proposed change the public and importers will be better served and Customs personnel and resources will be more efficiently utilized. It is not anticipated that this change will have any adverse financial impact on either the agency or the community.

The proposed revised limits of the port of Vicksburg are as follows:

All of the territory within Madison Parish, Louisiana, and Warren, Hinds, Rankin, and Madison counties, Mississippi.

If the proposed extension of the boundaries of the port is adopted, the list of Customs and ports of entry in 19 CFR 101.3(b) will be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regualtions (31 CFR 1.4, and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m., at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Authority: This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

Regulatory Flexibility Act

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this document is being issued with notice for public comment, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12291

Because this document relates to agency organization and management, it is not subject to Executive Order 12291.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: June 2, 1992.

Dennis M. O'Connell,

Acting Assistant Secretary of the Treasury.

[FR Doc. 92–14069 Filed 6–15–92; 8:45 am]

BILLING CODE 4820–02–M

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[7] Order No. 636, *supra*, at slip opin. p. 72, 57 FR 13283 (April 16, 1992).

[8] Order No. 636, *supra*, slip opin. at pages 69–85, 57 FR 13283–13286 (April 16, 1992).

19 CFR Part 101

Extension of Port Limits of Morgan City, LA

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations pertaining to the field organization of Customs by extending the geographical limits of the port of entry of Morgan City, Louisiana. The proposed change is being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources and to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before August 17, 1992.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to and inspected at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Peg Reyen, Office of Inspection and Control (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public, Customs is proposing to amend §§ 101.3 and 101.4, Customs Regulations (19 CFR 101.3 and 101.4), by extending the geographical limits of the port of entry of Morgan City, Louisiana.

In the list of Customs regions, districts, and ports of entry set forth in § 101.3(b), Morgan City is listed as a port of entry in the New Orleans, Louisiana, Customs District within the South Central Region. The Morgan City port of entry was originally established by T.D. 54682 (published in the **Federal Register** on September 16, 1958, 23 FR 7131) with specific geographical limits which may be described generally as encompassing the southeastern one-third of St. Mary Parish and including the town of Morgan City where the office of the Customs Port Director is currently located. The geographical limits of the Morgan City port of entry were republished without change in connection with a restatement of all New Orleans Customs District port boundaries in T.D. 84–126 (published in the **Federal Register** on May 31, 1984, 49 FR 22629).

In addition, in § 101.4(c), Houma, Louisiana (located within Terrebonne Parish), and Galliano, Louisiana (located within Lafourche Parish), are listed as Customs stations within the New Orleans Customs District and under the supervision of the Morgan City port of entry. Customs stations are defined in § 101.1(d), Customs Regulations, as "any place, other than a port of entry, at which Customs officers or employees are stationed * * *" for purposes of entering and clearing vessels, accepting entries of merchandise, collecting duties, and enforcing the various provisions of the Customs and navigation laws of the United States. Thus, Customs stations are by definition located outside the limits of a port of entry, and Customs services are normally provided to the public at Customs stations on a reimbursable basis.

The Morgan City port of entry was established primarily to provide vessel documentation (now the function of the U.S. Coast Guard) in southwest Louisiana, and for a number of years after creation of the port of entry most Customs functions could be adequately carried out within the port limits as originally established by T.D. 54682. However, in more recent years the Customs workload increased significantly in both volume and geographical scope, with the result that the majority of Customs service provided by the Morgan City port of entry now takes place outside the present port limits, extending to Iberia Parish to the west of St. Mary Parish and, on the east, to the parishes of Terrebonne and Lafourche and the town of Grand Isle in Jefferson Parish.

Iberia Parish regularly receives foreign steel shipments by LASH-type barge and has a livestock export facility at its airport, and international trade activities, including the construction of warehousing and other support facilities, is on the increase in both Iberia Parish and in the western portion of St. Mary Parish. Terrebonne and Lafourche Parishes include four major shipyards where vessel construction and drydock repairs take place and where Customs clearance is required in connection with vessels arriving for repairs, and approximately 20 additional vessel arrivals take place each month at docking facilities along the Intracoastal Waterway within these two parishes. In addition, Port Fourchon, which is located in Lafourche Parish, serves as a hub for helicopter and service launch traffic to lightering vessels and tankers at the Louisiana Offshore Oil Port (LOOP) supertanker unloading terminal, resulting in approximately 100 helicopter and 45 service launch clearances by Customs each month in addition to the Customs services rendered in connection with the approximately 270 tankers arrivals at the LOOP each year. Port Fourchon is also used as a base for foreign-flag research vessels and derrick barges operating in the Gulf of Mexico, and vessels carrying containerized and other cargo from foreign countries arrive at Port Fourchon on a weekly basis. Finally, the town of Grand Isle is the home port for a large number of private seagoing yachts which are required to report to Customs upon arrival from any foreign port or place. Customs services in connection with all of these activities are provided by personnel assigned to the Morgan City port of entry.

Based on the present Customs workload pattern described above, Customs proposes to extend the present limits of the Morgan City port of entry to include all territory within the parishes of Iberia, St. Mary, Terrebonne, and Lafourche, as well as the incorporated limits of the town of Grand Isle in Jefferson Parish and that portion of the State highway which connects Grand Isle to Lafourche Parish. Customs believes that the proposed extension, if adopted, would provide significant benefits to both Customs and the public. Although the name of the port of entry would remain Morgan City, extension of the port limits would enable Customs to move the office of the Port Director to Galliano in Lafourche Parish, which is more centrally located given present workload conditions. This relocation would increase the efficiency and productivity of the Port Director's office by reducing the time and effort required for travel and transportation of documents between the office and other locations within the extended port of entry, by enabling the Port Director to more effectively administer outside assignments and oversee other port details, and by streamlining Customs duty and other collection procedures. This increase in Customs efficiency and productivity would have corresponding benefits for the public by enabling Customs to be more responsive to the needs of the trade community. In addition, by extending the present port of entry limits to include areas now serviced by Customs on a reimbursable basis, the proposal would reduce the operating costs of private sector recipients of those services and would thereby lead to an improvement in the overall prospects for increased international trade in the area covered by the new port of entry limits.

The proposed extended geographical limits of the Morgan City port of entry are specifically as follows:

In the State of Louisiana: All of the territory within the Parishes of Iberia, St. Mary, Terrebonne, and Lafourche; that portion of the right-of-way pertaining to State Highway 1 extending in a northeasterly direction from the Lafourche Parish and Jefferson Parish boundary line to the corporate limits of the town of Grand Isle; and the corporate limits of the town of Grand Isle.

If the proposed Morgan City port of entry limits are adopted, the list of Customs regions, districts, and ports of entry in 19 CFR 101.3(b) will be amended accordingly. In addition, the list of Customs stations in 19 CFR 101.4(c) will be amended to remove the references to the Customs stations at Houma and Galliano as these will fall within the new port of entry limits and thus will no longer retain their separate identities as Customs stations.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Authority: This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

Regulatory Flexibility Act

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this document is being issued with notice for public comment, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12291

Because this document relates to agency management and organization, it is not subject to E.O. 12291.

Drafting Information

The principal author of this document was Francis W. Foote, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Carol Hallett,

Commissioner of Customs.

Approved: June 2, 1992.

Dennis M. O'Connell,

Acting Assistant Secretary of the Treasury.

[FR Doc. 92-14070 Filed 6-15-92; 8:45 am]

BILLING CODE 4820-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA-13-4-5413; FRL-4144-3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited disapproval of revisions to the California State Implementation Plan (SIP) adopted by the Sacramento Metropolitan Air Quality Management District (SMAQMD). The California Air Resources Board submitted these revisions to EPA on May 13, 1991. The revisions concern SMAQMD's Rule 442, Architectural Coatings, and Rule 446, Storage of Petroleum Products, adopted October 2, 1990 and December 4, 1990, respectively. Both of these rules concern the control of volatile organic compounds (VOCs). EPA evaluated the revisions found in Rules 442 and 446, and on November 5, 1991 (56 FR 56485), EPA proposed a limited approval under sections 110(k)(3) and 301(a) of the Clean Air Act, as amended in 1990 (CAA), because these revisions strengthen the SIP. At this time, EPA is proposing a limited disapproval of Rules 442 and 446 under section 110(k)(3) because the rules do not meet the Part D, section 182(a)(2)(A) requirement of the CAA.

DATES: Comments must be received on or before [July 16, 1992].

ADDRESSES: Comments may be mailed to: Esther Hill, Northern California, Nevada & Hawaii Rulemaking Section (A-5-4), Air and Toxics Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.

FOR FURTHER INFORMATION CONTACT: William Davis, Southern California, Arizona & Guam Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1183, FTS: 484-1183.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amendment Act), that included the SMAQMD. 43 FR 8964, 40 CFR 81.305. Because it was not possible for SMAQMD to reach attainment by the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date for ozone in the SMAQMD to December 31, 1987. 40 CFR 52.222(d). SMAQMD did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA notified the Governor of California that the SMAQMD's portion of the SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amended guidance.[1]

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed

Continued

EPA's SIP–Call used that guidance to indicate the necessary corrections for specific nonattainment areas. Sacramento is classified as serious; [2] therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on May 13, 1991, including the two SMAQMD rules being acted on in this notice. The submittal was found to be complete on July 10, 1991 pursuant to EPA's completeness criteria set forth in 40 CFR part 51, appendix V.[3] This notice addresses EPA's second proposed action for Rule 442, Architectural Coating, and Rule 446, Storage of Petroleum Products. See 56 FR 56485 (November 5, 1991).

Rule 442 controls the emissions of VOCs from architectural coating operations, and Rule 446 controls the emissions of VOCs from tanks storing petroleum products. VOCs contribute to the production of ground level ozone and smog. SCAQMD's Rules 442 and 446 were originally adopted as part of the District's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and have been revised in response to EPA's SIP–Call and the section 182(a)(2)(A) CAA requirement.

On November 5, 1991, EPA proposed a limited approval of these rules under sections 110(k)(3) and 301(a) of the CAA because the revisions strengthen the SIP (56 FR 56485). In that notice, EPA states its intention to also propose a limited disapproval of submitted Rules 442 and 446 because they contained deficiencies that had not been corrected as required by section 182(a)(2)(A) of the CAA and, as such, the rules did not fully meet the requirements of Part D of the Act. In today's action, EPA is proposing a limited disapproval of these rules. The following is EPA's evaluation and proposed action for SCAQMD's Rules 442 and 446.

post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] SMAQMD retained its designation and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[3] EPA has since adopted completeness criteria pursuant to section 110(k)(1)(A) of the amended Act. See 56 FR 42216 (August 26, 1991).

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents that, based on the underlying requirement of the Act, specified the presumptive norms for what is RACT for specific source categories. Under the amended Act, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). There is no EPA CTG for Rule 442 concerning architecture coatings. The CTG to Rule 446 is entitled "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks", EPA document EPA–450/2–78–047. Further interpretations of EPA policy are found in the Blue Book. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SMAQMD's submitted Rule 442, Architectural Coatings, includes the following revisions to the current SIP rule:

—Exemptions for several specialty coatings have been deleted.
—The exemption for small businesses has also been deleted.
—The test methods to be used to establish compliance have been included.

SMAQMD's submitted Rule 446, Storage of Petroleum Products, includes the following revisions to the current SIP rule:

—An exemption for underground jet fuel tanks has been deleted.
—Definitions of "gas tight" and "organic liquid" have been added.
—A provision for the discretionary use of alternate vapor recovery systems by the Air Pollution Control Officer (APCO) has been deleted.
—APCO discretion of alternate closure devices has also been deleted.
—Provisions for maintenance plans have been added.
—Recordkeeping and test methods to be used for determining compliance have been added.

EPA has evaluated SMAQMD's submitted Rules 442 and 446 for consistency with the CAA, EPA regulations and EPA policy and has found that the revisions address and correct many deficiencies previously identified by EPA. These corrected deficiencies have resulted in clearer, more enforceable rules.

Although the approval of SMAQMD's Rules 442 and 446 will strengthen the SIP, these rules still contain deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirement of Part D of the CAA. These deficiencies involve allowance for the use of equivalent test methods in both Rules 442 and 446. A detailed discussion of rule deficiencies can be found in the Technical Support Document (TSD) and addendum for Rule 442 and 446 (the TSDs are dated July 23, 1991; the addendum, January 3, 1992) which are avilable from the U.S. EPA, Region 9 office. Because of these deficiencies, the rules are not approvable pursuant to section 182(a)(2)(A) of the CAA because the deficiencies cause them to be inconsistent with the interpretation of section 172 of the pre-amended Act as found in the Blue Book and may lead to rule enforceability problems.

Thus, EPA is today proposing a limited disapproval of these rules under section 110(k)(3) because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of Part D of the Act. Under section 179(a)(2), if the Administrator dissaproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18-month period referred to in section 179(a) will begin at the time EPA publishes final notice of this disapproval. At the end of that period, if EPA has not approved these rules as meeting the applicable requirements of section 182(a)(2)(A),

EPA will impose one of these two sanctions. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 2 action by the Regional Administrator under the procedure published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, The Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 8, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–14094 Filed 6–15–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 502 and 550

[Docket No. 92–36]

Reduction of Notice Requirements for Tariff Increases in the Domestic Offshore Trades; Exemption Under Section 35 of the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to amend its regulations governing the publishing, filing and posting of tariffs in domestic offshore commerce and its rules governing protests and replies thereto. These amendments would reduce notice requirements for tariff increases by carriers providing port-to-port service in the domestic offshore trades and would amend the time for protesting such increases. The proposed exemption would permit such carriers to publish, on not less than seven workdays' notice, any new or changed tariff matter which results in an increased cost to the shipper, but which does not meet the statutory definition of general rate increase. Protests to such increases or changes could be filed not later than 9 a.m. of the last workday prior to the effective date of the increase or rule change.

DATES: Comments due July 16, 1992. Comments must be received at the Commission by the due date; the date of mailing will not be accepted as the date of filing in this proceeding.

ADDRESSES: Send comments (original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573–0001, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Seymour Glanzer, Director, Bureau of Hearing Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573–0001, (202) 523–5783 (Phone), (202) 523–5785 (FAX).

SUPPLEMENTARY INFORMATION: Section 2 of the Intercoastal Shipping Act, 1933 ("1933 Act"), 46 U.S.C. app. 844, requires ocean carriers providing port-to-port service in the domestic offshore trades to file, on thirty days' notice, any new or changed tariff matter, except for general rate increases or decreases, which must be filed on sixty days' notice. On December 16, 1991, the Commission issued a final rule in Docket No. 91–42 Tariff Filing Notice Requirements; Domestic Offshore Trades, 26 S.R.R. 70 (1991), which creates an exemption under section 35 of the Shipping Act, 1916, 46 U.S.C. app. 833a, for such carriers to file on one day's notice any new or changed tariff matter which does not increase the shipper's cost of transportation.[1] This action followed and superseded several earlier exemptions to the thirty days' notice requirement which were granted to particular carriers or trades pursuant to individual applications for such relief.[2] In granting these exemptions from statutory notice requirements, the Commission cited regulations of the Interstate Commerce Commission ("ICC"), at 49 CFR 1312.39(h), which permit new and reduced joint, single-factor, motor-water rates to be filed on one day's notice with that agency.

For more than a decade, regulatory jurisdiction in the domestic offshore trades has been split between this Commission and the ICC, depending on whether the form of transportation is port-to-port, or joint intermodal transportation with a segment taking place within a state or the District of Columbia. In the latter case, the entire transportation, including the ocean portion, is subject to ICC jurisdiction.[3]

Independent motor-water rates and charges in the domestic offshore trades filed at the ICC may be increased on not less than seven workdays' notice pursuant to ICC regulations at 49 CFR 1312.39(h) (2) and (4). Those same regulations permit changes on seven workdays' notice to rules or other provisions which effect reductions in the value of service or increases in rates or charges. Rates, rules and charges of ICC-regulated freight forwarders of household goods are governed by the same provisions.

Ocean carriers providing port-to-port services subject to FMC jurisdiction compete with carriers providing motor-water services subject to ICC jurisdiction.[4] Thus, to foster greater consistency in regulation and to permit carriers to compete more equally in the domestic offshore trades, the Commission is proposing to reduce notice requirements for tariff increases in these trades from thirty days to seven workdays.

This change would apply to both vessel-operating carriers and NVOCCs and would govern commodity rate

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[1] This exemption does not extend to any "general decrease in rates" as that term is defined by section 1 of the 1933 Act, 46 U.S.C. app. 843. Such general decreases still require sixty days' notice.

[2] Matson Navigation Co., Inc.—Application for Section 35 Exemption, 24 S.R.R. 1518 (1989); Tariff Filing Periods—Exemption, 24 S.R.R. 1604 (1989); Application of Sea-Land Service Inc. For Exemption Under Section 35 of the Shipping Act, 1916, 25 S.R.R. 660 (1990); Tropical Shipping & Construction Co. Ltd.—Application for Section 35 Exemption, 25 S.R.R. 1471 (1991); Application of Trailer Marine Transport Corporation Under Section 35 of the Shipping Act, 1916, 25 S.R.R. 1660 (1991); Puget Sound Tug & Barge Co.—Application for Section 35 Exemption: Hawaii and Alaska Trades, 26 S.R.R. 61 (1991).

[3] *Puerto Rico Maritime Shipping Authority* v. *ICC*, 645 F. 2d 1102 (D.C. Cir. 1981); *Trailer Marine Transport Corp.* v. *FMC*, 602 F. 2d 370 (D.C. Cir. 1979).

[4] There also may be competition in some of the domestic offshore trades from carriers offering rail-water services subject to ICC jurisdiction. In general, rates, rules and charges for rail services may be increased on 20 days' notice, 49 CFR 1312.39(h)(2) and 1312.4(e)(1)(i)(A). However, rail carriers also may provide intermodal service which is exempt from regulation under 49 CFR part 1090.

increases as well as other new or changed tariff filings which would result in an increase in the shippers' cost of transportation, but which would not meet the statutory definition of "general rate increase." [5] These filings may include, for example:

—Across-the-board increases, including charges or surcharges, of less than 3 percent;
—Rule changes resulting in an increase; or
—Cancellation of or reduction in service which increases the shippers' costs.

All of these filings now must be made on at least thirty days' notice and the Commission proposes to reduce the notice period to at least seven workdays for all such tariff increases. Congress has created a clear distinction in notice requirements between general rate increases and other types of tariff increases, but has provided no easily discernible basis for distinguishing among the various types of other tariff increases. Neither the statute nor the Commission's rules contain definitions which would be helpful in differentiating among these other types of tariff increases.[6] Moreover, the ICC's rules make no such distinctions.

Currently, the Commission's rules permit protests to proposed tariff changes made pursuant to the 1933 Act to be filed and served no later than twenty days prior to the proposed effective date of the change. 46 CFR 502.67(b)(2). This provision also must be changed to conform to the proposed seven workdays' notice for tariff increases.

The ICC permits protests of tariffs filed on less than ten days' notice (including motor-water tariffs filed pursuant to 49 CFR 1312.39(h) (2) and (4)) to be submitted not later than 9 a.m. on the last workday before the tariffs' scheduled effective date. 49 CFR 1132.1(b). To be consistent with the ICC, and to give protestants the maximum amount of time for preparing protests and requests for investigation and suspension, we are proposing a similar rule for challenging tariff increases before the FMC. In addition, the proposed rule would reduce the required contents of such protests to accommodate the shorter time for preparation.

The Commission does not believe that this exemption from the statutory notice period will substantially impair effective regulation, be unjustly discriminatory, or be detrimental to commerce.

Some have argued that requiring a long notice period to increase individual rates introduces price rigidity and creates an incentive for a carrier not to cut rates. Thus, if a carrier knows that it cannot increase rates for thirty days after a rate decrease, it might be reluctant to reduce a rate in the first place. Reducing the notice period for rate increases from thirty to seven days may, therefore, prove beneficial to shippers and carriers.[7]

General rate increases would continue to require sixty days' notice and must be accompanied by the supporting data specified at 46 CFR part 552. Shippers or other persons who believe they may be harmed by these other tariff increases would not be deprived of remedies by this proposal. Protests and requests for investigation and suspension still would be available before increases become effective. Moreover, section 4 of the 1933 Act and section 22 of the Shipping Act, 1916, would continue to provide complainants with the right to obtain reparation for rates found to be unjust, unreasonable, or otherwise unlawful.

In recognition of the vital interests of offshore states, territories and possessions in ocean transportation, the Commission is also proposing that increases filed by carriers on less than 30 days' notice be transmitted to designated offshore government officials or offices by facsimile transmission, or by hand delivery, on the date of filing. This should provide several extra days for review now consumed by the process of mailing such tariff changes.

If this proposal becomes final, appropriate changes also will be made to the final rule promulgated at 46 CFR 514, implementing the Commission's automated tariff filing and information system. See e.g. § 514.9 of the September 9, 1991, Proposed Rule in FMC Docket No. 90–23 Tariffs and Service Contracts (56 FR 46044, 46071).

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(n), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions.

The collection of information requirements contained in this proposed rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980. (Pub. L. 96–511), as amended. Public reporting burden for this amendment is estimated to average twenty (20) minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Norman W. Littlejohn, Director, Bureau of Administration, Federal Maritime Commission and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Reporting and recordkeeping requirements.

46 CFR Part 550

Maritime carriers, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553, sections 18, 35 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 817, 833a and

[5] General rate increases, as defined by section 1 of the 1933 Act, would continue to be filed on sixty days' notice, to permit the thorough analysis of these increases directed by Congress in the 1978 amendments to that statute. See H.R. Rep. No. 474, 95th Cong. 1st Sess. 9 (1977); S. Rep. No. 1240, 95th Cong. 2d Sess. 12 (1978).

[6] The difficulty of defining "commodity rate increase," for example can be seen in the most recent Commission investigation and suspension of "commodity" rates in the domestic offshore trades. There, the carrier filed amendments to its tariff proposing a 2.9 percent increase in approximately 300 commodity items and rules. Puerto Rico Maritime Shipping Authority—Proposed 2.9% Rate Increase Affecting Major Commodities in the U.S. Atlantic and Gulf/Puerto Rico and Virgin Islands Trades, Docket No. 81–70, Order of Investigation and Suspension issued November 19, 1981. That proceeding was discontinued by order of December 30, 1981, upon cancellation of the proposed rate increases.

[7] *See, e.g.*, Addendum Report to the Advisory Commission on Conferences in Ocean Shipping, by Professor David A. Butz, page E–39 (1992).

841a, and section 2 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 844, parts 502 and 550 of title 46, Code of Federal Regulations are proposed to be amended as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6569); and 21 U.S.C. 853a.

2. In § 502.67, paragraph (b)(2) is revised to read as follows:

§ 502.67 Proceedings under section 3(a) of the Intercoastal Shipping Act, 1933.

* * * * *

(b)(1) * * *

(2) Protests against other proposed changes in tariffs made pursuant to section 3 of the Intercoastal Shipping Act, 1933, shall be filed and served not later than 9 a.m. on the last workday before the scheduled effective date of the change. Any protest may be made by letter and shall be filed with the Director, Bureau of Tariffs, Certification and Licensing, and served upon the tariff publishing officer of the carrier in accordance with subpart H of this part. Such protests shall identify the tariff in question and the grounds for opposition to the change as well as the relief sought by the protestant. A protest is deemed filed on the date it is received by the Commission.

* * * * *

PART 550—PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

3. The authority citation for part 550 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 812, 814, 815, 817, 820, 833a, 841a, 843, 844, 845, 845a, 845b, and 847.

4. In section 550.1, paragraph (b) is revised to read as follows:

§ 550.1 Exemptions.

* * * * *

(b) Carriers engaged in the transportation by water of passengers or property on the high seas or the Great Lakes on regular routes from port to port between Alaska, Hawaii, a Territory, District or possession of the United States and any other State, Territory, District or possession of the United States, or between places in the same Territory, District, or possession, may publish:

(1) On one day's notice any new or amendatory tariff matter that does not result in an increased cost to the shipper. This exemption shall not apply to any decrease which is part of a "general decrease in rates" as defined by section 1 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 843; and

(2) On seven workdays' notice any new or amendatory tariff matter that results in an increased cost to the shipper.

This exemption shall not apply to any increase which is part of a "general increase in rates" as defined by section 1 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 843.

* * * * *

5. In § 550.3, paragraphs (f) and (h)(2) are revised to read as follows:

§ 550.3 Filing of tariffs; general.

* * * * *

(f) Unless otherwise provided by the Commission, or this part, all tariff matter tendered for filing (including the tariffs of carriers entering a trade for the first time) shall bear an effective date which permits at least seven workdays' notice of the filing, except that any new or amendatory tariff matter that does not result in an increased cost to the shipper may be filed on not less than one day's notice. See § 550.1(b). The notice period between filing date and effective date shall commence at 12:01 a.m. of the day of filing, as evidenced by the Commission's receipt notation. The tariff may take effect at 12:01 a.m. of the 8th workday or 2nd day, as appropriate. Workdays means all days except Saturdays, Sundays, and federal holidays observed in the District of Columbia.

* * * * *

(h) * * *

(2) The governor of any state, commonwealth or territory served by a domestic offshore carrier may request a carrier in writing to furnish a designated government official or office no more than two (2) copies of any tariff matter filed by the carrier which pertains to trades affecting the state, commonwealth or territory in question. Upon receipt of such a request, the carrier shall provide promptly to the designated official or office the requested copies of its existing tariff(s) and add the official or office to its list of tariff subscribers. No charge shall be made for the service, but such officials and offices shall be treated in the same fashion as paid subscribers in all other respects. In addition, that carrier shall promptly file a rule in its applicable tarriff(s) publishing the name, address, and facsimile number of each designated official or office, along with a statement substantially as follows:

A copy of any new or amendatory tariff matter that results in an increased cost to the shipper and that is filed on less than 30 days' notice pursuant to 46 CFR 550.1(b)(2), shall be provided to the designated government officials or offices listed in this rule, by facsimile transmission, or hand delivery, on the same day that such tariff matter is filed with the Federal Maritime Commission.

* * * * *

6. In § 550.5, paragraph (b)(9) is amended by removing the number "18" and adding, in its place, the number "19" and paragraph (b)(8) is amended by adding a new paragraph (b)(8)(xviii) reading as follows:

§ 550.5 Contents of tariffs.

* * * * *

(b) * * *

(8) * * *

(xviii) *Notice of tariff increases to designated government officials.* If a carrier chooses to take advantage of the exemption provided by subsection 550.1(b)(2) of this part, by filing tariff increases on less than 30 days notice, a rule as required by subsection 550.3(h)(2) of this part must be set forth in its tariff(s) publishing the name, address and facsimile number of each official or office designated by the governor of a state, commonwealth or territory served by that carrier and indicating that a copy of any such new or amendatory tariff matter shall be provided by facsimile transmission, or hand delivery, on the day of file, to each such official or office.

* * * * *

7. In section 550.10, paragraph (b)(5) is removed in its entirety, paragraph (b)(7) is amended by removing the words "ten days' " and adding in their place, "7 workdays';" paragraphs (b)(6) and (b)(7) are redesignated (b)(5) and (b)(6) respectively; and paragraph (b)(4) is revised to read as follows:

§ 550.10 Amendments to tariffs.

* * * * *

(b) * * *

(4) Amendments which do not result in an increased cost to the shipper, except for general rate decreases, may be posted and filed on not less than one day's notice;

* * * * *

PART 550—[AMENDED]

8. In addition to the amendments set forth above, in 46 CFR part 550, remove the words "30 days" and add, in their place, the words "7 workdays" in the following places;

(a) Section 550.3(o)(3).

(b) Section 550.10(b).
(c) Section 550.17(b)(2).
(d) Section 550.17(c).
(e) Section 550.17(e).

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-14118 Filed 6-15-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 87

[PR Docket No. 92-125; FCC 92-231]

Authorization of Use of 406.025 MHz for Emergency Locator Transmitters (ELTs)

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This Notice of Proposed Rule Making proposes amending part 87 of its rules to authorize use of the frequency 406.025 MHz for Emergency Locator Transmitters (ELTs) on aircraft. This action is in response to a request from the National Oceanic and Atmospheric Administration of the United States Department of Commerce (NOAA). The proposed use of 406.025 MHz for ELTs will permit the use of digital technology, aid search and rescue personnel and give a more accurate location of the beacon.

DATES: Comments must be received on or before July 27, 1992, and reply comments on or before August 11, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: James A. Shaffer, Special Services Division, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554; or telephone (202) 632-7197.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, PR Docket No. 92-100, adopted May 22, 1992, and released June 5, 1992. The complete text of the Notice of Proposed Rule Making, including Appendices, is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The full text also may be purchased from the Commission's copy contractor: Downtown Copy Center, (202) 452-1422, 1114 21st Street, NW., Washington, DC 20036

Summary of Notice of Proposed Rulemaking

1. The National Oceanic and Atmospheric Administration (NOAA) requests that the Commission amend its Aviation Services Rules (part 87) to authorize the use of the frequency 406.025 MHz for emergency locator transmitters (ELTs) on aircraft. ELTs are small battery powered transmitters carried on aircraft that are used to transmit a distress signal. Currently, only on the frequencies 121.500 or 243.000 MHz are authorized for aircraft operations. These distress signals are detected by overflying aircraft or nearby land stations if they are monitoring the distress frequency, or by low orbiting satellites that are part of an international satellite system, COSPAS/SARSAT. ELTs and other beacons operating on these frequencies use analog signals that have "blind spots" where activated beacons can not be detected by satellites.

2. The 1983 Mobile World Administrative Radio Conference for the Mobile Services allocated the 406.0-406.1 MHz band for the exclusive use of low-power, earth-to-space emergency position indicating radiobeacons. Because the 406 MHz signal is digital, it is able to be stored and retransmitted once the satellite is over a ground station. This gives the system world-wide coverage with no blind spots. The proposed use of 406.025 MHz for ELTs will permit the use of digital technology, aid search and rescue personnel and give more a accurate location of the beacon.

Procedural matters

3. This is a non-restricted notice and comment rule making proceeding. *Ex Parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203, 1.1206(a).

4. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before July 27, 1992, and reply comments on or before August 11, 1992. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments and reply comments, you must file an original plus nine copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Docket's Reference Room of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

5. We certify that the Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because if the proposed rule amendments are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by section 601(3) of the Regulatory Flexibility Act. The change proposed herein will have a beneficial effect on the aviation community by permitting the use of 406.025 MHz for ELTs by aircraft. These changes are voluntary and will not cause significant economic impact on any entity. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 605(b) of the Regulatory Flexibility Act. Public Law 96-354, 94 Stat. 1164, 5 U.S.C. 601-612 (1980).

List of Subjects in 47 CFR Part 87

Frequency allocations, Radio, communications equipment.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Proposed Rules

Part 87 of chapter 1 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 87—AVIATION SERVICES

1. The authority citation for part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-156, 301-609.

2. In § 87.133(a) the stability table is amended by adding a new entry at the end of paragraph (6) to read as follows:

§ 87.133 Frequency stability.

(a) * * *

Frequency band (lower limit exclusive, upper limit inclusive), and categories of stations.	Tolerance[1]	Tolerance[2]
* * * * *		
(6) Band-137 to 470 MHz:		
* * * * *		

Frequency band (lower limit exclusive, upper limit inclusive), and categories of stations.	Tolerance[1]	Tolerance[2]
Emergency locator transmitters on 406 MHz	N/A	5
* * * * *	* * * * *	

[1] This tolerance is the maximum permitted until January 1, 1990 for transmitters installed before January 2, 1985, and used at the same installation. Tolerance is indicated in parts in 10^6 unless shown as Hertz (Hz).

[2] This tolerance is the maximum permitted after January 1, 1985 for new and replacement transmitters and to all transmitters after January 1, 1990. Tolerance is indicated in parts in 10^6 unless shown in Hertz (Hz).

3. In § 87.137(a) the emission table is amended by adding a new entry in alphabetical order to read as follows:

§ 87.137 Types of emission.

(a) * * *

Class of emission	Emission designator	Authorized bandwidth (kilohertz)		
		Below 50 MHz	Above 50 MHz	Frequency deviation
G1D	16K0G1D		20 kHz	

* * * * *

4. In § 87.147 paragraph (b) is amended by revising the first sentence and adding a new paragraph (e) to read as follows:

§ 87.147 Type acceptance of equipment.

(a) * * *

(b) ELTs that operate on the frequencies 121.500 mHz and 243.000 MHz that are manufactured after October 1, 1988, must meet the power output characteristics contained in paragraph 87.141(i) of this section when tested in accordance with the Signal Enhancement Test contained in subpart N, part 2 of this chapter. * * *

* * * * *

(e) Application for type acceptance for ELTs capable of operating on the frequency 406.025 MHz must include sufficient documentation to show that the ELT meets the requirements of § 87.199(a).

5. In § 87.173 the frequency table in paragraph (b) is amended by adding a new entry in numeric order to read as follows:

§ 87.173 Frequencies.

* * * * *

(b) * * *

Frequency or frequency band	Subpart	Class of station	Remarks
* * * * *	* * * * *	* * * * *	* * * * *
406.025MHz	F, G, H, I, J, K, M, O	MA, FAU, FAE, FAT, FAS, FAC, FAM, FAP.	Emergency and distress.

* * * * *

6. In § 87.187 existing paragraphs (m) through (aa) are redesignated (n) through (bb) and a new paragraph (m) is added to read as follows:

§ 87.187 Frequencies.

* * * * *

(m) The frequency 406.025 MHz is an emergency and distress frequency available for use by emergency locator transmitters. Use of this frequency must be limited to transmissions of distress and safety communications.

* * * * *

7. In § 87.195 paragraph (a) is amended by adding a new sentence to read as follows:

§ 87.195 Frequencies.

(a) * * * ELTs that transmit on the frequency 406.025 MHz use G1D emission.

* * * * *

8. A new § 87.199 is added to read as follows:

§ 87.199 Special requirements for 406.025 MHz ELTs.

(a) 406.025 MHz ELTs must meet all the technical and performance standards contained in the Radio Technical Commission for Aeronautics document titled "Minimum Operational Performance Standards 406 MHz Emergency Locator Transmitters (ELT)" Document No. RTCA/DO–204 dated September 29, 1989. This RTCA document is incorporated by reference in accordance with 5 U.S.C. 552(a). The document is available for inspection at Commission headquarters in Washington, DC or may be obtained from the Department of Transportation, Federal Aviation Administration, Office of Airworthiness, 800 Independence Avenue SW., Washington, DC 20591.

(b) An identification code, issued by the National Oceanic and Atmospheric Administration (NOAA), the United States Program Manager for the 406.025 MHz COSPAS/SARSAT satellite system, must be programmed in each ELT unit to establish a unique identification for each ELT station. With each marketable ELT unit the manufacturer or grantee must include a postage pre-paid registration card addressed to: NOAA/SARSAT Operations Division, E/SP3, Federal Building 4, Washington, DC 20233. The registration card must include the ELT identification code and must request the owner's name, address, telephone number and type of aircraft.

(c) In addition to the identification plate or label requirements contained in §§ 2.925, 2.926 and 2.1003 of the Commission rules, each 406.025 MHz ELT must be provided on the outside with a clearly discernable permanent plate or label containing the following statement: "It is extremely important that the owner of this 406.025 MHz ELT register NOAA identification code contained on this label with the National Oceanic and Atmospheric Administration (NAOO) whose address is: NOAA, NOAA/SARSAT Operations Division, E/SP3, Federal Building 4, Washington, DC 20233."

(d) For 406.025 MHz ELTs whose identification code can be changed after manufacture, the identification code shown on the plate or label must be

easily replaceable using commonly available tools.

[FR Doc. 92-13914 Filed 6-15-92; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 213

Defense Federal Acquisition Regulation Supplement; Contingency Small Purchases

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for public comments.

SUMMARY: The Defense Acquisition Regulations Council is proposing changes to the Defense FAR Supplement to permit use of the small purchase procedures of FAR part 13 for acquisitions of up to $100,000, made outside the United States, in support of a contingency operation declared by the Secretary of Defense.

DATES: Comments on the proposed DFARS rule should be submitted in writing at the address shown below on or before July 15, 1992, to be considered in the formulation of a final rule. Please cite DAR Case 91-310.

ADDRESSES: Interested parties should submit written comments to The Defense Acquisition Regulations Council, ATTN: Ms. Kathy Fenk, OUSD(A)DP(DARS), The Pentagon, Washington, DC 20301-3000. FAX (703) 697-9845.

FOR FURTHER INFORMATION CONTACT: Kathy Fenk, (703) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

These changes implement section 805 of the FY 92 National Defense Authorization Act, which amended Section 2302(7) of title 10, United States Code. Revisions to the Defense FAR Supplement are proposed to add sections 213.000 and 213.101 to increase the small purchase threshold, up to $100,000, for any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation declared by the Secretary of Defense.

B. Regulatory Flexibility Act

The proposed rule is not expected to have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the proposed rule only applies to purchases made and contracts awarded and performed outside the United States during contingency operations. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS sections will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 92-610 in correspondence.

C. Paperwork Reduction Act

The proposed rule does not impose any reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 213

Government procurement.

Claudia L. Naugle,
Executive Editor, Defense Acquisition Regulations Council.

Therefore, it is proposed that 48 CFR part 213 be amended as follows:

PART 213—SMALL PURCHASES AND OTHER SIMPLIFIED PURCHASE PROCEDURES

1. The authority citation for 48 CFR part 213 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, Defense FAR Supplement 201.301.

2. Section 213.00 is added to read as follows:

213.000 Scope of part.

This part also implements section 805 of Public Law 102-190 (10 U.S.C. 2302(7)) which increases the small purchase threshold to $100,000 for any acqusition to be awarded and performed outside the United States in support of a contingency operation declared by the Secretary of Defense.

3. Subpart 213.1 is added to read as follows:

Subpart 213.1—General

213.101 Definitions.

Small purchase also means an acquisition of $100,000 or less using the procedures prescribed in FAR Part 13, if the acquisition is awarded and performed outside the United States in support of a contingency operation declared by the Secretary of Defense.

[FR Doc. 92-14104 Filed 6-15-92; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

[Docket No. 920648-2148]

RIN 0648-AE75

Red Drum Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement Amendment 3 to the Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico (FMP). This proposed rule would remove from the regulations the detailed procedures applicable to the Gulf of Mexico Fishery Management Council (Council) and NMFS for assessing the stock and determining the allowable biological catch (ABC) of red drum; remove from the regulations language specifying that, at such time as a catch of red drum were allowed, a person landing red drum, other than from a directed commercial fishery, must comply with the landing and possession laws of the state where landed; and make other minor corrections and clarifications to the regulations. In addition, Amendment 3 would change the requirement that the procedure for stock assessments, panel reports, and setting ABC and total allowable catch (TAC) be commenced prior to October 1 every year to "prior to October 1 every other year or at such time as agreed upon by the Council and the Regional Director," Southeast Region, NMFS (Regional Director). The intended effects of this rule are to simplify the regulations by removing administrative procedures that are not applicable to the conduct of the red drum fishery; to comply with a ruling by the U.S. District Court for the District of Columbia; and to ease an unnecessarily burdensome requirement for stock assessments, panel reports, and findings regarding ABC and TAC.

DATES: Written comments must be received on or before July 31, 1992.

ADDRESSES: Comments on the proposed rule should be sent to Robert A. Sadler, NMFS, Southeast Regional Office, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Copies of Amendment 3, which includes an Environmental Assessment and a Regulatory Impact Review, may be obtained from the Gulf of Mexico

Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813–893–3161.

SUPPLEMENTARY INFORMATION: The red drum fishery is managed under the FMP, prepared and amend by the Council, and its implementing regulations at 50 CFR part 653 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The FMP, as amended, and § 653.24 of the implementing regulations require annually that (1) the Science and Research Director, Southeast Fisheries Science Center, NMFS, prepare a stock assessment for the red drum fishery; (2) the Council appoint a scientific assessment group to review the Science and Research Director's report and other data and to prepare an assessment report; (3) the Council consider the reports and public comments, hold a public hearing, and, if a change in TAC is proposed, initiate an FMP amendment to set TAC within the ABC range. Amendment 3 would change the annual requirement for these procedures, commencing in 1993, to "prior to October 1 every other year or such time as agreed upon by the Council and Regional Director." The Council believes that annual assessments are unnecessarily frequent and that changes over such a brief time span are difficult to measure.

Rather than revise § 653.24 of the implementing regulations, NMFS proposes to delete the section from the regulations because the procedures (1) are purely administrative; (2) do not control the conduct of the fishery; and (3) do not constitute a framework procedure for amending the regulations—changes that may result from the procedures may only be implemented by an amendment to the FMP. The procedures would still be effective as part of the approved FMP, as amended.

In its ruling in the case of *Southeastern Fisheries Ass'n* v. *Mosbacher*, D.D.C. No. 86–1948 (August 6, 1991), the U.S. District Court for the District of Columbia held that the failure by the Secretary of Commerce (Secretary) to supersede state laws with respect to the landing of red drum taken in the EEZ was arbitrary and an abuse of discretion. The case is moot as a practical matter, because current regulations prohibit harvest or possession of red drum from the EEZ. However, the FMP and the regulations at 50 CFR 653.3(c) provide that, at such time as a TAC for red drum is specified, a person landing red drum, other than from a directed commercial red drum fishery, must comply with the landing and possession laws of the state where landed. These provisions are not in accord with the District Court's ruling. Accordingly, NMFS intends to withdraw the Secretary's approval of the provision of Amendment 1 that preserves the state landing laws and to remove 50 CFR 653.3(c). This withdrawal and removal does not preclude use by the Council and NMFS of specific state landing and possession laws in future management regimes for red drum, if it can be demonstrated that the state laws are consistent with the Federal management scheme.

NMFS also proposes to remove definitions that are no longer used in the regulations.

Additional information regarding the proposed change in the frequency of the stock assessment procedure is contained in Amendment 3, the availability of which was published in the **Federal Register** (57 FR 23199, June 2, 1992).

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended, requires the Secretary to publish regulations proposed by a council within 15 days of receipt of an FMP amendment and regulations. At this time, the Secretary has not determined that Amendment 3, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

The Assistant Administrator for Fisheries, NOAA, has initially determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Council prepared a regulatory impact review (RIR) for Amendment 3, which concludes that this rule, if adopted, would reduce costs.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The red drum fishery in the exclusive economic zone is closed to all harvest, and that prohibition is expected to continue for a long-time period. Accordingly, there are no "small business entities" to be affected, and the action is not considered "significant."

The Council prepared an environmental assessment (EA) as part of Amendment 3 that discusses the impact on the environment as a result of this rule. A copy of the EA is available (see ADDRESSES) and comments on it are requested.

The Council has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Alabama, Florida, Louisiana, and Mississippi. Texas does not participate in the coastal zone management program. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This proposed rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 653

Fisheries, Reporting and recordkeeping requirements.

Dated: June 10, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 653 is proposed to be amended as follows:

PART 653—RED DRUM FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 653 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 653.2 [Amended]

2. In § 653.2, the definitions for *Commercial fishing (fishery)*, *Directed commercial red drum fishing*

(fishery)", and "*Regional Director*" are removed.

§ 653.3 [Amended]

3. In § 653.3, paragraph (c) is removed.

4. In § 653.7, paragraph (d) is revised to read as follows:

§ 653.7 Prohibitions.

* * * * *

(d) Fail to release immediately with a minimum of harm a red drum caught in the EEZ; or possess a red drum in or from the EEZ, as specified in § 653.22(a).

* * * * *

§ 653.22 [Amended]

5. In § 653.22, the section heading is revised to read "*Harvest and possession limitations.*"

§ 653.24 [Removed]

6. Section 653.24 is removed.

§ 653.25 [Redesignated as § 653.24]

7. Section 653.25 is redesignated as new § 653.24.

[FR Doc. 92-14079 Filed 6-15-92; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Part 683

[Docket No. 920530-2130]

Western Pacific Bottomfish and Seamount Groundfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes a rule to extend for 6 years the moratorium on fishing in the Hancock Seamount fisheries under the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific (FMP). This proposed rule is intended to ensure that fishing mortality in the exclusive economic zone (EEZ) will not contribute to further declines in the seamount groundfish stocks and may help foster a rebound of those stocks throughout their range. The seamount groundfish stocks are overfished, and if the moratorium is not extended and fishing resulted, the recovery of the stocks would be further threatened.

DATES: Comments on the proposed rule must be received on or before July 16, 1992.

ADDRESSES: Comments should be sent to E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, Long Beach, CA 90802. Copies of the document requesting and supporting this action and the environmental impact statement prepared for the FMP imposing the initial Hancock Seamount fishery moratorium may be obtained from the Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, at 310-980-4034, or Alvin Katekaru, NMFS, at 808-955-8831.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Western Pacific Fishery Management Council (Council) and approved and implemented by the Secretary of Commerce in 1986 (51 FR 27413, July 31, 1986). The FMP established a moratorium on fishing for bottomfish and seamount groundfish (mainly pelagic armorhead and alfonsin) within the Hancock Seamount subarea of the EEZ due to the severely depressed status of the stocks. It was noted at the time that the range of the stocks extends beyond the EEZ, and that action in the EEZ alone would not ensure rebuilding of the stocks. Nonetheless, it was concluded that affirmative action in the EEZ was appropriate. The moratorium was designed to last for 6 years (i.e., until August 27, 1992), after which it was hoped that stocks would have rebounded in the EEZ to permit a fishery.

The FMP also provided a framework (codified at 50 CFR 683.24) for changing the conservation and management measures through rulemaking rather than an FMP amendment.

NMFS has conducted periodic assessments of the stocks in the EEZ for the past 5 years and has concluded that the stocks have not recovered. In its annual report on the bottomfish and seamount groundfish fisheries for the 1990 fishing year, the Council's plan team indicated that the estimated current spawning potential ratio (SPR), which is a measure of the spawning biomass relative to the spawning biomass prior to the fishery, was only 2.2 percent, far below the threshhold (SPR = 20 percent) established to define overfishing for bottomfish and seamount groundfish stocks. The catch per unit effort of pelagic armorhead in research fishing was at the lowest point since research fishing began in 1985.The team recommended that the Council request that the moratorium be extended indefinitely.

At its March 1992 meeting, the Council considered the information from the team and concluded that extension of the moratorium is warranted. The Council subsequently submitted a request for NMFS to take action under the framework procedure of the FMP. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has agreed that there is a sound basis for this request and proposes to implement it.

The proposed rule would extend the moratorium on harvest of bottomfish and seamount groundfish in the EEZ through August 31, 1998. This will provide additional time for recovery of the stocks in the EEZ and may contribute to a recovery of the stocks throughout their range. NMFS will continue to monitor the status of the stocks and will advise the Council of its findings annually.

The Assistant Administrator requests public comment on this proposed rule.

Classification

This proposed rule is published under the authority of 50 CFR part 683 and was prepared at the request of the Council. The Assistant Administrator initially has determined that this proposed rule is necessary for the conservation and management of the western Pacific bottomfish and seamount groundfish fishery and is consistent with the Magnuson Act and other applicable law.

An environmental impact statement (EIS) was incorporated into the original FMP and included assessment of the impacts of the moratorium for the seamount groundfish fishery proposed and implemented at that time. There has been no change in the condition of the stocks and extension of the moratorium is within the range of alternatives considered in the EIS. Therefore, this action is categorically excluded from the requirement to prepare an environmental assessment in accordance with paragraph 6.02c.3.(f) of NOAA Administrative Order 216-6. A copy of the EIS is available from the Council (see **ADDRESSES**).

In a Biological Opinion on the original FMP, NMFS concluded that the FMP, including the moratorium on the Hancock Seamount fishery, would not jeopardize the continued existence of any species listed under the Endangered Species Act or adversely affect any critical habitat for listed species. Extension of the moratorium for 6 years will not affect any listed species or any critical habitat in a manner not analyzed in that Biological Opinion.

The Assistant Administrator initially has determined that the proposed rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The proposed action will not have a cumulative effect of $100 million or

more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises. This conclusion is based on the original combined FMP/EIS, regulatory impact review, and the supplementary document prepared for this rule, which indicates that there is not now and never has been a U.S. fishery for seamount groundfish. The intent is that the moratorium will allow the seamount groundfish stocks to rebuild, providing a potential U.S. fishery in the future.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This proposed rule would continue a moratorium that has been in place for 6 years. There is no fishery in the area now and there never has been a U.S. fishery for these stocks. There is no immediate impact from this action. However, the action may result in rebuilding of the seamount groundfish stocks and provide future economic benefits to the United States.

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 683

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 10,1992.

Samuel W. McKeen,

Acting Assistant Adminstrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 683 is proposed to be amended as follows:

PART 683—WESTERN PACIFIC BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES

1. The authority citation for part 683 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. Section 683.23 is revised to read as follows:

§ 683.23 Fishing moratorium on Hancock Seamount.

Fishing for bottomfish and seamount groundfish on the Hancock Seamount is prohibited through August 31, 1998.

[FR Doc. 92–14101 Filed 6–15–92; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 57, No. 116
Tuesday, June 16, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Oil and Gas Leasing: Custer National Forest; Little Missouri National Grassland: Billings, Golden Valley and Slope Counties, ND; Cedar River National Grassland: Sioux and Grant Countries, ND; Grant River National Grassland: Corson and Perkins Counties, SD; Custer National Forest: Hardin Counties, SD

AGENCY: Forest Service, USDA.

ACTION: Notice; revision of notice of intent to prepare an environmental impact statement.

SUMMARY: The Notice of Intent was publish in the **Federal Register** (56 FR 29459) on Thursday June 27, 1991 that an environmental impact statement (EIS) would be prepared on the proposal to lease Federal oil and gas minerals in North and South Dakota on the Custer National Forest, including the Little Missouri, Cedar River and Grand River National Grasslands. The Notice of Intent is revised to reduce the area to be covered by that analysis, and to change the schedule for completion of the draft and final EIS.

The revised area to be covered by the analysis is the Little Missouri National Grassland in Billings, Golden Valley and Slope Counties, North Dakota, and the Cedar River National Grassland in Sioux and Grant Counties, North Dakota. The Grand River National Grassland in Corson and Perkins Counties, South Dakota, and the Custer National Forest lands in Hardin County, South Dakota, will be covered under a future environment impact statement.

Originally the draft environmental impact statement was scheduled to be released to the public on or about April 30, 1992 with the final statement to be filed by December 20, 1992. Under the current schedule, the draft environmental impact statement should be available for review in May 1993, and the final statement should be released in December 1993.

John Mumma, Regional Forester, was originally listed as the responsible official for this EIS and decision. This authority has since been delegated to the Custer National Forest. The Responsible offical is now Curtis Bates, Forest Supervisior, Custer National Forest.

DATES: June 16, 1992.

ADDRESSES: Curtis W. Bates, Forest Supervisor, Custer National Forest, P.O. Box 2556, Billings, MT 59103.

FOR FURTHER INFORMATION CONTACT: James Gray, EIS Team Leader, Custer National Forest, phone (406) 657–6361.

Dated: June 6, 1992.

[FR Doc. 92–14067 Filed 6–15–92; 8:45]
BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–807]

Initiation of Antidumping Duty Investigation: Crushed Limestone From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 16, 1992.

FOR FURTHER INFORMATION CONTACT: Bill Crow, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–0116.

INITIATION OF INVESTIGATION:

The Petition

On May 20, 1992, we received a petition filed in proper form by the Texas Crushed Stone Company, Parker Lafarge, Inc., and Gulf Coast Limestone, Inc. (the petitioners). Supplements to the petition were received on May 21, May 26, and June 2, 1992. In accordance with 19 CFR 353.12, the petitioners allege that crushed limestone from Mexico is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act, and because they have filed the petition on behalf of a regional U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

We received letters dated May 22, 1992, from Vulcan Materials Company, Pioneer Concrete of Texas Inc., and The Fordyce Company, and a letter dated May 27, 1992, from Thorstenberg Materials Company, regarding the standing of petitioner to file on behalf of the industry. On June 5, 1992, the Department sent standing questionnaires to these companies. We will examine the responses to these questionnaires during the course of the investigation.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14.

Scope of Investigation

The product covered by this investigation is crushed limestone from Mexico. The subject merchandise consists of all forms of crushed limestone, including limestone base—whether or not stabilized—limestone aggregate, including coarse aggregate and fine aggregate (limestone sand), and any other forms of crushed limestone. Crushed limestone is classifiable under subheading 2517.10.00.20 of the Harmonized Tariff Schedule of the United States (HTS). Specifically excluded from the scope of the investigation are limestone flux, agricultural limestone and limestone cement kiln feed, used in the manufacture of lime and cement, provided for under subheading 2521.00.00.00.6 of the HTS. Although the HTS subheadings are provided for convenience and customs purposes, our

written description of the scope of this investigation is dispositive.

United States Price and Foreign Market Value

Petitioners' estimate of U.S. price (USP) is based on information from domestic industry sources and is comprised of sales, bids, or offers for sale of the subject merchandise in the United States by the Mexican producer. Petitioners based USP on exporter's sales price and deducted movement charges and selling expenses. We have modified the deduction for ocean freight and marine insurance by applying the ocean freight and insurance charge into the port of Port Arthur, Texas. We examined ocean freight and insurance statistics from the U.S. Bureau of Census for entries of subject merchandise into the ports of New Orleans, Houston/Galveston and Port Arthur. Based on its proximity to the alleged region, it appears that freight costs into the port of Port Arthur are most reasonable. We have also adjusted USP for handling. We have accepted only those U.S. prices which were reported for the period May 1991 through May 1992.

Petitioners estimated foreign market value (FMV) based on (1) a home market sales price list obtained from market research commissioned by petitioners in Mexico and (2) constructed value (CV). Petitioners made no deductions from the home market price.

For the purposes of initiation, we are not accepting petitioners' less than fair value allegations which were based on comparisons of U.S. prices and the home market price list, because the respondent allegedly has no sales in the home market and because the price list is outdated. An independent research firm included estimates of materials, labor and overhead incurred at a quarry in Mexico in its calculation of CV. The petitioners added general expenses based upon the aforementioned research firm's estimates of general and administrative and interest expenses, and the statutory minimum of eight percent profit. The Department excluded depreciation expenses on the port facilities because these expenses were incurred after the merchandise left the factory. Interest expenses were recalculated based upon the last known expenses incurred.

Based on the comparisons of both the home market price list and CV to the U.S. prices, the petitioners' alleged dumping margins for crushed limestone from Mexico range from 1.90 percent to 901.90 percent. Since we have rejected the home market price list, disallowed U.S. prices that are not contemporaneous, and made the adjustments stated above, our recalculated margins range from 2.52 percent to well over 900 percent. Our recalculated margins are based on all comparisons of USP to CV.

Initiation of Investigation

We have examined the petition on crushed limestone from Mexico and have found that the petition meets the requirements of section 732(b) of the Act and 19 CFR 353.12. Therefore, we are initiating an antidumping duty investigation to determine whether imports of crushed limestone are being, or are likely to be, sold in the United States at less than fair value.

Preliminary Determination by the International Trade Commission

The International Trade Commission (ITC) will determine by July 6, 1992, whether there is a reasonable indication that imports of crushed limestone from Mexico are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: June 9, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-14112 Filed 6-15-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council (Council) has established an Ad Hoc Committee (AHC) to help develop a long-term allocation plan for Pacific whiting to be in effect until the Council's proposed license limitation program takes effect. The AHC, which is composed of members from each major segment of the affected industry, will hold a public meeting on July 1, 1992, beginning at 10:00 a.m. and ending no later than 4:30 p.m. The meeting will be held in the Tualatin Room at the Columbia River Red Lion, 1401 North Hayden Island Drive, Portland, OR.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: June 10, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-14036 Filed 6-15-92; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College.

ACTION: Notice of meeting.

SUMMARY: Open to the public on July 16, 1992, starting at 8:30 a.m. at the Defense Systems Management College in Building 184 on Fort Belvoir, VA. The panel will hear presentations and recommendations by the various panel working groups on the statutes they have reviewed to date. For further information contact Laura Neal at (703) 355-2665.

Dated: June 11, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 92-14061 Filed 6-15-92; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 7, 1992; Tuesday, July 14, 1992; Tuesday, July 21, 1992; and Tuesday, July 28, 1992, at 2 p.m. in room 800, Hoffman Building #1, Alexandria, Virginia.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, The Pentagon, Washington, DC 20310.

Dated: June 11, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 92–14082 Filed 6–15–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for Proposed Aggregate Mining in the Klamath River in Del Norte County, CA

AGENCY: Army Corps of Engineers (San Francisco District), Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Red Rock Industries and the Coast Indian Community of Resighini Rancheria have applied for a Department of the Army (DA) permit to discharge dredged and fill material and work in the navigable waters of the United States in association with proposed aggregate mining in the Klamath River in Del Norte County, California. This river is a component of the National Wild and Scenic Rivers System. The permit application process, scoping process, and preparation of the Draft EIS will be the responsibility of the Regulatory Branch of the San Francisco District.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process, preparation of the Draft EIS, and processing of the permit application may be directed to Jennifer Vick at the Corps of Engineers (telephone 415–744–3322, ext. 225).

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The Corps of Engineers has received an application for a Department of the Army permit from Red Rock Industries and the Coast Indian Community of Resighini Rancheria to mine aggregate resources from an overflow channel of the Klamath River in Del Norte County, California. The permit will be processed by the Regulatory Branch of the San Francisco District, Corps of Engineers pursuant to the provisions of section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of the proposed project is to obtain aggregate resources for sale in the construction of the U.S. Route 101 Redwoods National Park Bypass and in meeting long-term, local needs. The applicant proposes to extract a total of 450,000 cubic yards of material from a 33-acre site over a three year period. Extraction would average 150,000 cubic yards per year.

In accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.)*, the Corps has determined that the proposed action may have a significant impact on the quality of the human environment and therefore requires the preparation of an Environmental Impact Statement.

2. Alternatives

The project alternatives identified thus far include:

a. Proposed Project

The proposed project would include the extraction of a total of 450,000 cubic yards of material from a 33-acre site over a three year period. Extraction would average 150,000 cubic yards per year. This extraction would be divided into three phases. Phase one would include the removal of approximately 30,000 cubic yards of material from a natural berm at the upstream margin of the overflow channel. Phase two would consist of skimming approximately 100,000 cubic yards of material from previously unmined areas of the bar. Phase three would consist of the extraction of approximately 300,000 cubic yards of material by excavating the downstream end of the overflow channel to a depth of 15 feet below summer groundwater levels. A ten-acre temporary processing plant would be located on an adjacent upland site. This plant would include equipment for washing, screening, sorting, and crushing the aggregate as well as a sedimentation basin for the treatment of processing water. Annual cross sections would be provided to monitor aggregate extraction and recruitment. Upon completion of operations, all equipment would be removed from the site; the sedimentation basin would be filled in with gravel and graded to match the adjacent topography; and the extraction site would be graded to eliminate benches, trenches, or wells.

b. No Action Alternative

This alternative would entail no mining.

3. Scoping Process

Pursuant to the National Environmental Policy Act, as amended, agency planning for federal or federally permitted projects must include a scoping process. Scoping primarily involves determining the scope of issues to be addressed and identifying significant issues for in-depth analysis in the draft EIS. The scoping process includes public participation to integrate information regarding public needs and concerns into the environmental document.

The Corps of Engineers will hold a public scoping meeting on July 21, 1992 at 6:30 p.m. at the Coast Indian Community of Resighini Rancheria located at 151 Northeast Klamath Beach, Klamath, California 95548.

Representatives from the Corps of Engineers and Rising Sun Enterprises (the consultant preparing the EIS) will be available at this meeting to receive comments from the public regarding issues of concern that should be addressed in the environmental document.

Agencies and the public are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the scoping meeting. These comments should specifically describe environmental issues or topics which the commentator believes the document should address. Written statements should be mailed no later than August 20, 1992 to the District Engineer, U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, California, 94105 ATTN: Jennifer Vick.

a. Significant Issues

The following issues have been identified as potentially significant and will be evaluated in the Draft EIS. However, the scope of analysis is not limited to these issues.

(1) Geologic conditions.
(2) Hydrologic conditions.
(3) Erosion/sedimentation rates.
(4) Habitat for fish, other aquatic organisms, and wildlife.
(5) Pool and riffle areas (special aquatic site).
(6) Endangered species.
(7) Native American concerns.
(8) Cultural resources.
(9) Cumulative impacts.

b. Environmental Requirements

Environmental review and other consultation requirements applicable to the proposed action include:

(1) National Environmental Policy Act, as amended.
(2) National Wild and Scenic Rivers Act.
(3) Clean Water Act, as amended.
(4) Clean Air Act, as amended.
(5) National Historic Preservation Act, as amended.
(6) Fish and Wildlife Coordination Act.
(7) Endangered Species Act, as amended.
(8) Rivers and Harbors Act of 1899.
(9) California Surface Mining and Reclamation Act.
(10) California Environmental Quality Act.
(11) California Wild and Scenic River Act.

4. Availability of the EIS

The time of completion of the draft EIS is estimated to be December 1993.

Stanley G. Phernambucq,

Col. En Commanding.

[FR Doc. 92–14032 Filed 6–15–92; 8:45 am]

BILLING CODE 3710–FS–M

Notice of Availability of a Joint Draft Environmental Statement

AGENCY: U.S. Army Corps of Engineers, Los Angeles District, DOD.

ACTION: Notice of Availability of a Joint Draft Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for Deep-Draft Navigation Improvements, Los Angeles and Long Beach Harbors, San Pedro Bay, California.

SUMMARY: This Draft EIS/EIR analyzes the potential environmental impacts associated with the planned expansion of the Port of Los Angeles to efficiently accommodate projected increased cargo input and the relocation of hazardous and other facilities at the Port. The proposed action involves the dredging of navigation channels and turning basins in Los Angeles Harbor, California, and the placement of the dredged material in the harbor creating about 582 acres of new landfill to support new terminals and associated handling and storage facilities. This proposed action is consistent with pertinent local planning documents and Federal planning guidelines. While the Federal navigation improvements have been authorized by Congress (Pub. L. 99–662 and 100–676) pending the recommendations of the Chief of Engineers and the Assistant Secretary of the Army (for Civil Works), the Port is concurrently seeking approval for a Port Master Plan Amendment for the development of associated terminal facilities. Previous related planning efforts include the participation of the Port of Long Beach; however, planning efforts were refocused to emphasize proposed actions in the Port of Los Angeles after the Port of Long Beach withdrew from the process in October 1991.

This Draft EIS/EIR has been prepared to fulfill the requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The overall analysis considers an array of alternative plans developed to meet the primary planning objectives of improving efficiencies in the movement of commodities through the Port in a manner which would avoid or minimize adverse impacts to the maximum extent practicable. The Proposed Action/ Recommended Plan provides for four increments of phased construction so that facilities are developed over time when forecasts indicate a need. The anticipated cumulative efforts of phased construction of the proposed action, including mitigation measures, also have been considered and addressed. Individual terminal development expected to be constructed by the Port of Los Angeles in the future will be addressed in future site-specific environmental analyses and documents consistent with the NEPA and/or CEQA, as necessary.

PUBLIC HEARING: A public hearing regarding this action is scheduled for June 29, 1992, 7 p.m., Port of Los Angeles, 425 South Palos Verdes Street, San Pedro, California.

FOR FURTHER INFORMATION CONTACT: Comments concerning the Draft EIS/EIR should be received by July 27, 1992 and should be addressed to: U.S. Army Corps of Engineers, Los Angeles District, (ATTN: Mr. Frank Piccola, CESPL–PD–RN), 300 North Los Angeles Street, Los Angeles, California 90012–2325 (213) 894–0244.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–14031 Filed 6–15–92; 8:45 am]

BILLING CODE 3710–KF–M

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet July 9-10, 1992, from 9:00 am to 5:00 pm, in Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review maritime issues as they impact national security policy and requirements. The entire agenda of the meeting will consist of discussions of key issues regarding national security policy, naval strategy and related intelligence and naval research and development. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, Room 601, Alexandria Virginia 22302-0268, Phone (703) 756-1205.

Dated: June 5, 1992.

Wayne T. Baucino

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 92-14065 Filed 6-15-92; 8:45 am]

BILLLING CODE 3810-AE-F

Privacy Act of 1974; Amend Record Systems

AGENCY: Department of the Navy, DOD.

ACTION: Amend record systems.

SUMMARY: The Department of the Navy proposes to amend nine existing systems of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on July 16, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn Aitken at (703) 614-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, were published in the **Federal Register** as follows:

51 FR 12906, Apr. 16, 1986
51 FR 18086, May 16, 1986 (DON Compilation changes follow)
51 FR 19884, Jun. 3, 1986
51 FR 30377, Aug. 26, 1986
51 FR 30393, Aug. 26, 1986
51 FR 45931, Dec. 23, 1986
52 FR 2147, Jan. 20, 1987
52 FR 2149, Jan. 20, 1987
52 FR 8500, Mar. 18, 1987
52 FR 15530, Apr. 29, 1987
52 FR 22671, Jun. 15, 1987
52 FR 45846, Dec. 2, 1987
53 FR 17240, May 16, 1988
53 FR 21512, Jun. 8, 1988
53 FR 25363, Jul. 6, 1988
53 FR 39499, Oct. 7, 1988
53 FR 41224, Oct. 20, 1988
54 FR 8322, Feb. 28, 1989
54 FR 14378, Apr. 11, 1989
54 FR 32682, Aug. 9, 1989
54 FR 40160, Sep .29, 1989
54 FR 41495, Oct. 10, 1989
54 FR 43453, Oct. 25, 1989
54 FR 45781, Oct. 31, 1989
54 FR 48131, Nov. 21, 1989
54 FR 51784, Dec. 18, 1989
54 FR 52976, Dec. 26, 1989
55 FR 21910, May 30, 1990 (Updated Navy Mailing Addresses)
55 FR 37930, Sep. 14, 1990
55 FR 42758, Oct. 23, 1990
55 FR 47508, Nov. 14, 1990
55 FR 48678, Nov. 21, 1990
55 FR 53167, Dec. 27, 1991
56 FR 424, Jan. 4, 1991
56 FR 12721, Mar. 27, 1991
56 FR 27503, Jun. 14, 1991
55 FR 28144, Jun. 19, 1991
56 FR 31394, Jul. 10, 1991 (DOD Updated Indexes)
56 FR 40877, Aug. 16, 1991
56 FR 46167, Sep. 10, 1991
56 FR 59217, Nov. 25, 1991
56 FR 63503, Dec. 4, 1991
57 FR 2719, Jan. 23, 1992
57 FR 2726, Jan. 23, 1992
57 FR 2898, Jan. 24, 1992
57 FR 5430, Feb. 14, 1992
57 FR 9246, Mar. 17, 1992
57 FR 12914, Apr. 14, 1992
57 FR 14698, Apr. 22, 1992

The amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of altered systems reports. The specific changes to the systems of records are set forth below followed by the systems of records notices published in their entirety, as amended.

Dated: June 10, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01001-2

SYSTEM NAME:

Naval Reserve Law Program Officer Personnel Information, (51 FR 18088, May 16, 1986).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Office of the Judge Advocate General (Code 61), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Individuals applying for appointment or transfer to the Judge Advocate General's Corps of the Naval Reserve."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Information regarding an applicant's qualifications and intentions to affiliate in Naval Reserve Law Program."

* * * * *

PURPOSE(S):

Delete entry and replace with "To publish a directory of Naval Reserve Judge Advocates' location, reserve assignment, etc. Information in the Directory is made available to Navy Judge Advocates, active and reserve, to enable them to locate and identify the legal expertise of Naval Reserve Judge Advocates in the various states with varying legal qualifications and state licenses and to permit contact between Navy Judge Advocates."

* * * * *

STORAGE:

Delete entry and replace with "File folders."

RETRIEVABILITY:

Delete entry and replace with "Name."

* * * * *

SYSTEM(S) MANAGER AND ADDRESS:

Delete entry and replace with "Judge Advocate General (Code 61), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Judge Advocate General (Code 61), Department of the Navy, Room 9S05, Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332-2400.

Written requests must be signed by the requesting individual, and for personal visits, the individual should be able to provide some acceptable identification, e.g. Armed Forces identification card, driver's license, etc."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Judge Advocate General (Code 61), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "The individual."

* * * * *

N01001-2

SYSTEM NAME:

Naval Reserve Law Program Officer Personnel Information.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 61), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals applying for appointment or transfer to Judge Advocate General's Corps of the Naval Reserve.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information regarding an applicant's qualifications and intentions to affiliate in Naval Reserve Law Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 806.

PURPOSE(S):

To publish a directory of Naval Reserve Judge Advocates' location, reserve assignment, etc. Information in the Directory is made available to Navy Judge Advocates, active and reserve, to enable them to locate and identify the legal expertise of Naval Reserve Judge Advocates in the various states with varying legal qualifications and state licenses and to permit contact between Navy Judge Advocates.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Files are maintained in file cabinets under the control of authorized personnel during working hours; the office space in which the file cabinets are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Records are maintained for two years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Judge Advocate General (Code 61), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Judge Advocate General (Code 61), Department of the Navy, Room 9S05, Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332–2400.

Written requests must be signed by the requesting individual, and for personal visits, the individual should be able to provide some acceptable identification, e.g. Armed Forces identification card, driver's license, etc.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Judge Advocate General (Code 61), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N01070–1

SYSTEM NAME:

JAG Corps Officer Personnel Information, (51 FR 18089, May 16, 1986).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Active Duty Officers in the Judge Advocate General's Corps, Law Education and Excess Leave Programs."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Name, grade, designator, date of birth, Social Security Number, date of rank, pay entry base data, active duty service date, active commission base date, year and month of graduation from Naval Justice School, service date, lineal number, year group, current billet, future billets that are finalized, sub-specialty code, number of primary and secondary dependents, spouse's name, projected loss date and reason for loss, projected rotation date, law school and year of graduation from law school, state bar membership and year admitted, officer's preference for duty assignment and postgraduate education."

* * * * *

PURPOSE(S):

Delete entry and replace with "To manage the officers of the Navy JAG Corps, as the Judge Advocate General is statutorily required to make recommendation on the assignment of all active duty JAG Corps officers; to determine qualifications of an officer to receive a JAG Corps designation and to be certified as a trial or defense counsel; to determine the rotation dates and release from active duty dates of JAG Corps officers as well as the date new officers will be available for duty; to prepare JAG Corps strength plans for submission to OPNAV; and to obtain an officer's preference for duty assignment as well as eligibility for consideration for postgraduate education and overseas assignments. Certain of this information is promulgated to all active duty JAG Corps officers in a semi-annual publication known as the Directory of Navy Judge Advocates. The information is promulgated in the directory for general informational purposes within the JAG Corps, including provision of position (billet) availability information to officers contemplating rotation."

* * * * *

STORAGE:

Delete entry and replace with "Data is maintained on personal computers and paper records filed in file folders in storage devices."

RETRIEVABILITY:

Delete entry and replace with "Name."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Deputy Assistant Judge Advocate General (Code 61), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Code 61), Department of the Navy, Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332–2400.

Written requests must be signed by the requesting individual. For personal visits, the requesting individual should be able to provide some acceptable identification, e.g. Armed Forces identification card, driver's license, etc."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Code 61), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

Personnel visits may be made to the JAG Personnel Office, Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332–2400."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy's rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individual; orders to active duty and subsequent transfer orders; and computer strips provided by the Bureau of Naval Personnel on all active duty officers."

* * * * *

N01070–1

SYSTEM NAME:

JAG Corps Officer Personnel Information.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 61), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Duty Officers in the Judge Advocate General's Corps, Law Education and Excess Leave Programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, grade, designator, date of birth, Social Security Number, date of rank, pay entry base data, active duty service date, active commission base date, year and month of graduation from Naval Justice School, service date, lineal number, year group, current billet, future billets that are finalized, sub-specialty code, number of primary and secondary dependents, spouse's name, projected loss date and reason for loss, projected rotation date, law school and year of graduation from law school, state bar membership and year admitted, officer's preference for duty assignment and postgraduate education.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 806 and Executive Order 9397.

PURPOSE(S):

To manage the officers of the Navy JAG Corps, as the Judge Advocate General is statutorily required to make recommendation on the assignment of all active duty JAG Corps officers; to determine qualifications of an officer to receive a JAG Corps designation and to be certified as a trial or defense counsel; to determine the rotation dates and release from active duty dates of JAG Corps officers as well as the date new officers will be available for duty; to prepare JAG Corps strength plans for submission to OPNAV; and to obtain an officer's preference for duty assignment as well as eligibility for consideration for postgraduate education and overseas assignments. Certain of this information is promulgated to all active duty JAG Corps officers in a semi-annual publication known as the Directory of Navy Judge Advocates. The information is promulgated in the directory for general informational purposes within the JAG Corps, including provision of position (billet) availability information to officers contemplating rotation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Certain of this information (not including Social Security Number and date of birth) is promulgated to active-duty JAG Corps officers in a semi-annual publication known as the Directory of Navy Judge Advocates. The information is promulgated for general informational purposes within the JAG Corps, including provision of position (billet) availability information to officers contemplating rotation and as a social roster for official and nonofficial functions.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is maintained on personal computers and paper records filed in file folders in storage devices.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Data is maintained on personal computers and paper records filed in file folders in storage devices.

RETENTION AND DISPOSAL:

Upon release from active duty, records are kept three years and then destroyed. Upon retirement from active duty, records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Judge Advocate General (Code 61), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Code 61), Department of the Navy, Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332–2400.

Written requests must be signed by the requesting individual. For personal visits, the requesting individual should be able to provide some acceptable identification, e.g. Armed Forces identification card, driver's license, etc.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Code 61), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400. Personnel visits may be made to the JAG Personnel Office, Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332–2400.

CONTESTING RECORD PROCEDURES:

The Department of the Navy's rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; orders to active duty and subsequent transfer orders; and computer strips provided by the Bureau of Naval Personnel on all active duty officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N01572–1

SYSTEM NAME:

Reservists Reporting for Active Duty for Training, Background Questionnaires, (51 FR 18116, May 16, 1986).

CHANGES:

SYSTEM NAME:

Delete entry and replace with "NJAG Reserve Officer Questionnaires."

* * * * *

PURPOSE(S):

Delete entry and replace with "To prepare a memorandum to the Judge Advocate General and/or Deputy Judge Advocate General on each officer who reports for active duty for training. The memorandum permits the JAG and/or Deputy JAG to familiarize himself with the officer's background. It also assists the Reserve Personnel Division to make an informed assignment of the officer during his/her training period which will enable the officer and the JAG and/or Deputy JAG to obtain maximum benefit from the officer's training period."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Name."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Reserve and Retired Personnel Programs), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

Written requests must be signed by the requesting individual. For personal visits, the individual should be able to provide some acceptable identification, e.g., Armed Forces identification card, driver's license, etc."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Reserve and Retired Personnel Programs), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

Written requests must be signed by the requesting individual. For personal visits, the individual should be able to provide some acceptable identification, e.g., Armed Forces identification card, driver's license, etc."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individual."

* * * * *

N01572–1

SYSTEM NAME:

NJAG Reserve Officer Questionnaires.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 62), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers reporting for duty in the Office of the Judge Advocate General.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, designator, rank, unit to which attached, law school attended, year admitted to practice and State or Territory where admitted, and employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 806.

PURPOSE(S):

To prepare a memorandum to the Judge Advocate General and/or Deputy Judge Advocate General on each officer who reports for active duty for training. The memorandum permits the JAG and/or Deputy JAG to familiarize himself with the officer's background. It also assists the Reserve Personnel Division to make an informed assignment of the officer during his/her training period which will enable the officer and the JAG and/or Deputy JAG to obtain maximum benefit from the officer's training period.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders stored in a file cabinet.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Files are maintained in file cabinets under the control of authorized personnel during working hours; the office space in which the cabinets are located is locked outside of official working hours.

RETENTION AND DISPOSAL:

Records are retained for two months and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Judge Advocate General (Reserve and Retired Personnel Programs), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Reserve and Retired Personnel Programs), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

Written requests must be signed by the requesting individual. For personal visits, the individual should be able to provide some acceptable identification, e.g., Armed Forces identification card, driver's license, etc.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Reserve and Retired Personnel Programs), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

Written requests must be signed by the requesting individual. For personal visits, the individual should be able to provide some acceptable identification, e.g., Armed Forces identification card, driver's license, etc.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05370-2

SYSTEM NAME:

Statements of Employment and Financial Interest, (51 FR 18154, May 16, 1986).

CHANGES:

SYSTEM NAME:

Delete entry and replace with "Financial Interest Disclosure Statements."

SYSTEM LOCATION:

Delete entry and replace with "Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Individuals required to file DD Form 1555, SF-278, and/or DD Form 1787."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "DD Form 1555, Confidential Statement of Affiliations and Financial Interests; SF-278, Financial Disclosure Report; DD Form 1787, Report of DOD and Defense Related Employment; Position Descriptions; and related information."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 301, Departmental Regulations; Public Law 95-521, Ethics in Government Act of 1978; Executive Order 11222; and Executive Order 9397."

PURPOSE(S):

Delete entry and replace with "To permit supervisors, counselors, and other responsible DON officials to determine whether there are actual or apparent conflicts of interests between members' or employees' present and prospective official duties and their nonfederal affiliations and financial interests."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete first paragraph.

* * * * *

SAFEGUARDS:

Delete entry and replace with "Information is locked in a file cabinet accessible to authorized personnel only."

RETENTION AND DISPOSAL:

Delete entry and replace with "DD Forms 1555 and a complete record of all action taken thereon are retained for a period of six years in a central location within the command or activity to which the reporting official was assigned at the time of filing, after which they will be destroyed.

SFs-278 and DD Forms 1787 are retained for six years from the date of filing, and then destroyed unless needed for any investigation in which case they shall be held pending completion of the investigation."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Policy Officials: General Counsel, Navy Department, Washington, DC 20360-5110 and Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400.

Record Holder: Commanding Officer or head of the organization in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commanding Officer or head of the activity where they filed the forms.

Written requests should contain full name and must be signed by the individual."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves should address written inquiries to the Commanding Officer or head of the activity where they filed the forms.

Written requests should contain full name and must be signed by the individual."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individual concerned, his/her supervisor, and ethics counselor."

* * * * *

N05370-2

SYSTEM NAME:

Financial Interest Disclosure Statements.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals required to file DD Form 1555, SF-278, and/or DD Form 1787.

CATEGORIES OF RECORDS IN THE SYSTEM:

DD Form 1555, Confidential Statement of Affiliations and Financial Interests; SF-278, Financial Disclosure Report; DD Form 1787, Report of DOD and Defense Related Employment; Position Descriptions; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; Public Law 95-521, Ethics in Government Act of 1978; Executive Order 11222; and Executive Order 9397.

PURPOSE(S):

To permit supervisors, counselors, and other responsible DON officials to determine whether there are actual or apparent conflicts of interests between members' or employees' present and prospective official duties and their nonfederal affiliations and financial interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and card files.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Information is locked in a file cabinet accessible to authorized personnel only.

RETENTION AND DISPOSAL:

DD Forms 1555 and a complete record of all action taken thereon are retained for a period of six years in a central location within the command or activity

to which the reporting official was assigned at the time of filing, after which they will be destroyed.

SFs–278 and DD Forms 1787 are retained for six years from the date of filing, and then destroyed unless needed for any investigation in which case they shall be held pending completion of the investigation.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Officials: General Counsel, Navy Department, Washington, DC 20360–5110 and Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332–2400.

Record Holder: Commanding Officer or head of the organization in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commanding Officer or head of the activity where they filed the forms.

Written requests should contain full name and must be signed by the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Commanding Officer or head of the activity where they filed the forms.

Written requests should contain full name and must be signed by the individual.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual concerned, his/her supervisor, and ethics counselor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05371–1

SYSTEM NAME:

Conflicts of Interest and Employment Activities, (51 FR 18154, May 16, 1986).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Office of the Judge Advocate General (Code 13), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

In lines 18 and 19, delete the words "Navy Finance Center" and replace with "Defense Finance and Accounting Service".

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 3326, 5532; 10 U.S.C. 973, 974, 1032, 6223; 18 U.S.C. 202, 203, 205, 207, 209, 219, 281, 283; 37 U.S.C. 801; U.S. Const., Art. I, 9, cl 8; 5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101."

* * * * *

STORAGE:

Delete entry and replace with "File folders."

RETRIEVABILITY:

Delete entry and replace with "Name."

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SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Deputy Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

The request should contain full name and be signed."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

The request should contain full name and be signed."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

* * * * *

N05371–1

SYSTEM NAME:

Conflicts of Interest and Employment Activities.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 13), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, reserve, or retired military personnel and present and former civilian employees of the Navy or Marine Corps who, by reason of their own inquiries or inquiries or complaints of Department of the Navy or other federal officials or other appropriate persons, have been the subject of correspondence with the Judge Advocate General concerning the legality of outside federal, state, or private employment or financial interests, dual federal employment, post-retirement employment, defense related employment, or foreign employment; acceptance of gifts, gratuities, or benefits from government contractors, foreign governments, or other sources, or other possible violations of federal conflicts-of-interest or standards-of-conduct laws or regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence from, to, or concerning, individuals of the above stated category regarding their current, past, or prospective outside federal, state, or private employment; defense-related employment; post-retirement employment; foreign employment; dual federal employment; acceptance of gifts, gratuities, or benefits from government contractors, foreign governments, or other questionable sources; or other possible violations of conflicts-of-interest or standards-of-conduct laws or regulations. Additionally, such records sometimes include copies of statements of employment submitted by retired military personnel to the Defense Finance and Accounting Service and referred to the Judge Advocate General for review and further action, and copies

of investigative reports concerning suspected violations of pertinent laws or regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3326, 5532; 10 U.S.C. 973, 974, 1032, 6223; 18 U.S.C. 202, 203, 205, 207, 209, 219, 281, 283; 37 U.S.C. 801; U.S. Const., Art. I, 9, cl 8; 5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101.

PURPOSE(S):

Information is used as the basis for advisory opinions on the legality of employment activities, financial interests, and the related conflicts-of-interest and standards-of-conduct questions described above.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of the General Accounting Office; the Department of Justice; and the Office of Personnel Management in instances of suspected violations of pertinent laws or regulations.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Files are maintained in file cabinets under the immediate control of authorized personnel during working hours; the office space in which the file cabinets are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Records are permanent and are retained indefinitely in the Office of the Judge Advocate General. However, after five years, name indexes are destroyed, eliminating the capability for retrieval by the names of individuals. Thereafter, they are retrievable only by topical indexes arranged according to the legal issues involved.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

The request should contain full name and be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

The request should contain full name and be signed.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; correspondence from federal officials and current, past, and prospective employers; other interested persons regarding possible conflicts of interest and employment activities; and by investigations pertaining to particular suspected violations. Additional information in the form of statements of employment is forwarded by officers of the Navy Finance Center to the Judge Advocate General for review and further action.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05814-1

SYSTEM NAME:

Summary Courts-Martial and Non-Bad Conduct Discharge Courts-Martial--Navy and Marine Corps, (51 FR 18170, May 16, 1986).

CHANGES:

SYSTEM NAME:

Delete entry and replace with "Summary and Non-BCD Courts-Martial Records."

SYSTEM LOCATION:

Delete entry and replace with "Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

At end of entry, add "(BCD)."

CATEGORIES OF RECORDS IN THE SYSTEM:

In lines one and two, replace "bad conduct discharge" with "BCD".

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

In line one, after "301" add ", Departmental Regulations".

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Information may be obtained from the Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400, by written request including the full name of the individual concerned, the type of courts-martial (summary or special), the name of the command which held the courts-martial, and the date of the courts-martial proceedings. Written requests must be signed by the requesting individual."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400, by written request including the full name of the individual concerned, the type of courts-martial (summary or special), the name of the command which held the courts-martial, and the date of the courts-martial proceedings. Written requests must be signed by the requesting individual."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contents and appealing initial determinations by the individual concern are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

* * * * *

N05814-1

SYSTEM NAME:

Summary and Non-BCD Courts-Martial Records.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps enlisted personnel tried by summary courts-martial or by special courts-martial which did not result in a bad conduct discharge (BCD).

CATEGORIES OF RECORDS IN THE SYSTEM:

Summary courts-martial and non-BCD special courts-martial records of trial.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 865; 5 U.S.C. 301, Departmental Regulations; and, Executive Order 11476 of June 19, 1969, as amended by Executive Order 11835 of January 27, 1975, paragraph 94b (Manual for Courts-Martial, 1969 (rev.)).

PURPOSE(S):

To complete appellate review as required under 10 U.S.C. 864(a) and provide central repository accessible to the public who may request information concerning the appellate review or want copies of individual public records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Type of courts-martial, date, command which convened the courts-martial, name of individual defendant, and command which completed the supervisory authority's action.

SAFEGUARDS:

Files are maintained in file cabinets and other storage devices under the control of authorized personnel during working hours; the office space in which the file cabinets and storage devices are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Records are retained for two years after final action by officers having supervisory authority over shore activities, and for three months by officers having supervisory authority over fleet activities. At the termination of the appropriate retention period, records are forwarded for storage to the National Personnel Records Center (Military Personnel Records), GSA, 9700 Page Avenue, St. Louis, MO 63132-5100. Records are destroyed 15 years after final action has been taken.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400 and appropriate officers having supervisory authority over naval activities.

NOTIFICATION PROCEDURE:

Information may be obtained from the Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400, by written request including the full name of the individual concerned, the type of courts-martial (summary or special), the name of the command which held the courts-martial, and the date of the courts-martial proceedings. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400, by written request including the full name of the individual concerned, the type of courts-martial (summary or special), the name of the command which held the courts-martial, and the date of the courts-martial proceedings. Written requests must be signed by the requesting individual.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contents and appealing initial determinations by the individual concern are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Proceedings of summary courts-martial and special courts-martial which did not result in a bad conduct discharge.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05880-2

SYSTEM NAME:

Admiralty Claims Files, (51 FR 18179, May 16, 1986).

CHANGES:

* * * * *

PURPOSE(S):

Delete entry and replace with "To evaluate admiralty claims asserted against the Navy for settlement."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete first paragraph.

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Name of claimant or ship."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual. For personal visits, the individual should be able to provide some acceptable identification, e.g., driver's license, etc., and give some verbal information that could be verified in the file."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

* * * * *

N05880-2

SYSTEM NAME:

Admiralty Claims Files.

SYSTEM LOCATION:

Office of the Judge Advocate General; Office of the Commander in Chief, United States Naval Forces Europe; Office of the Commander Sixth Fleet; and the Federal Records Center, Suitland, MD. Local commands with which claims under the Public Vessels Act and the Suits in Admiralty Act are initially filed, typically retain copies of such claims and accompanying files. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have asserted claims or instituted suits under the Public Vessels Act and Suits in Admiralty Act against the Department of the Navy in the name of the United States and all individuals who have instituted suits against third parties who have impleaded the Department of the Navy in the name of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files may contain claims filed, correspondence, investigative reports, accident reports, medical and dental records, x-rays, allied reports (such as local police investigations, etc.), photographs, drawings, legal memoranda, opinions of experts, and court documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Admiralty Claims Act (10 U.S.C. 7622); 5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 310.

PURPOSE(S):

To evaluate admiralty claims asserted against the Navy for settlement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders stored in file cabinets or other storage devices.

RETRIEVABILITY:

Name of claimant or ship.

SAFEGUARDS:

Files are maintained in file cabinets or other storage devices under the control of authorized personnel during working hours; the office space in which the file cabinets and storage devices are located is locked outside of official working hours.

RETENTION AND DISPOSAL:

Records are retained in active files until each claim is settled or litigation resulting therefrom has been concluded. Thereafter, the files are maintained within the office for two years and then retired to the Federal Records Center, Suitland, MD.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual. For personal visits, the individual should be able to provide some acceptable identification, e.g., driver's license, etc., and give some verbal information that could be verified in the file.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The sources of information contained in the files include the following: X-rays, medical and dental records from civilian and military doctors and medical facilities; investigative reports; witnesses; and correspondence from claimants and their representatives.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05891-1

SYSTEM NAME:

Litigation Case File, (51 FR 18185, May 16, 1986).

CHANGES:

SYSTEM NAME:

At beginning of entry, add "NJAG".

CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

Delete entry and replace with "Individuals who may or have instituted litigation concerning matters under the cognizance of the Judge Advocate General, Department of the Navy. Excluded are cases arising in admiralty, under the Federal Tort Claims Act, and from matters under the cognizance of the Navy's General Counsel Office."

* * * * *

STORAGE:

Delete entry and replace with "Paper records in file folders."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Generally retained in office files for six years after final action, then destroyed. Specially designated files are retained for longer periods and then destroyed."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400. Written requests should include full name and be signed."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400. Written requests should include full name and be signed."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

* * * * *

N05891–1

SYSTEM NAME:

NJAG Litigation Case File.

SYSTEM LOCATION:

Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who may or have instituted litigation concerning matters under the cognizance of the Judge Advocate General, Department of the Navy. Excluded are cases arising in admiralty, under the Federal Tort Claims Act, and from matters under the cognizance of the Navy's General Counsel Office.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records, correspondence, pleadings, documents, memoranda, and notes relating to the litigation or anticipated litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations; 10 U.S.C. 5148; and 44 U.S.C. 3101.

PURPOSE(S):

To represent the Department of the Navy and cognizant officials in litigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To U.S. Attorneys, litigants, and other parties in litigation.

To Federal and state courts to whom and which information may be provided.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Name of litigant or anticipated litigant.

SAFEGUARDS:

Records are maintained in file cabinets accessible only to persons responsible for servicing the record system in performing their official duties.

RETENTION AND DISPOSAL:

Generally retained in office files for six years after final action, then destroyed. Specially designated files are retained for longer periods and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400. Written requests should include full name and be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400. Written requests should include full name and be signed.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From all sources with information which may impact upon actual or anticipated litigation, e.g., other record systems within DON, DOD, and other agencies and departments of the Federal Government, particularly the Department of Justice; state and local governments and law enforcement agencies; counsel and parties in litigation; third parties who provide information voluntarily or in response to discovery, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N06310–1

SYSTEM NAME:

Personal Injury and Illness Reports on Civilian and Govt-Service Seaman Employed on MSC Ships, (51 FR 18189, May 16, 1986).

CHANGES:

SYSTEM NAME:

Delete entry and replace with "Reports of injury/illness for personnel on MSC ships."

SYSTEM LOCATION:

Delete entry and replace with "Office of the Judge Advocate General (Code 31), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400."

* * * * *

PURPOSE(S):

Delete entry and replace with "To evaluate and settle admiralty claims asserted against the Navy."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete first paragraph.

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Name of injured seaman; name of MSC ship; date of injury."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

equesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

* * * * *

N06310–1

SYSTEM NAME:

Reports of Injury/Illness for Personnel on MSC Ships.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 31), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Injured civilian seamen and government service seamen employed by the Military Sealift Command or its contract operators for service on board MSC ships.

CATEGORIES OF RECORDS IN THE SYSTEM:

System consists of preliminary personal injury and illness reports on civilian seamen and government service seamen employed by the Military Sealift Command or its contract operators.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Admiralty Claims Act (10 U.S.C. 7622); 5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101.

PURPOSE(S):

To evaluate and settle admiralty claims asserted against the Navy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders stored in file cabinets.

RETRIEVABILITY:

Name of injured seaman; name of MSC ship; date of injury.

SAFEGUARDS:

Files are maintained in file cabinets under the control of authorized personnel during working hours; the office space in which the file cabinets are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Reports are maintained in personal injury report file folders for a period of two years from the date of particular injury or illness and are, thereafter, destroyed at the local office level.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Assistant Judge Advocate General (Admiralty), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street Alexandria, VA 22332–2400.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Masters of Military Sealift Command ships; witnesses; medical and dental forms; and investigative reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92–14083 Filed 6–15–92; 8:45am]

BILLING CODE 3810–01–F

DEPARTMENT OF EDUCATION

Chapter 1 Migrant Education Coordination Program for State Educational Agencies

AGENCY: Department of Education.

ACTION: Notice of proposed priority for Fiscal Year 1992.

SUMMARY: The Secretary proposes to amend the notice of final funding priorities for fiscal year (FY) 1992 grant competitions under the Chapter 1—Migrant Education Coordination Program for State Educational Agencies, by adding an additional absolute priority to the list of priorities that may be used in the FY 1992 competition for funds. Under the new priority, the Secretary would support projects to expand State efforts to recruit currently migratory children so that more children

can be served by the Migrant Education Program (MEP). Under this priority, funds would be reserved for State educational agencies (SEAs) whose MEP funds are insufficient to support adequate recruitment into the program of currently migratory children throughout their States, to expand their recruitment efforts, and provide services, in coordination with other States, that will benefit more currently migratory children on an interstate or intrastate basis. The Secretary also proposes a competitive preference and other considerations to direct the use of these funds.

DATES: Comments must be received on or before July 16, 1992.

ADDRESSES: All comments concerning this proposed priority should be addressed to Francis V. Corrigan, Director, Office of Migrant Education, U.S. Department of Education, room 2149, 400 Maryland Avenue, SW., Washington, DC 20202–6135.

FOR FURTHER INFORMATION CONTACT: Ann Weinheimer, Office of Migrant Education, U.S. Department of Education, room 2149, 400 Maryland Avenue, SW., Washington, DC 20202–6135. Telephone: (202) 401–0744. Deaf and hearing impaired individuals may call (202) 401–1985 or, if unavailable the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Authority for the chapter 1—Migrant Education Coordination Program for SEAs is contained in section 1203 of the Elementary and Secondary Education Act of 1965. Under this program, awards are made to SEAs to improve the interstate and intrastate coordination of educational programs available for migratory students. The statute directs the Secretary to make awards to SEAs in consultation with and with the approval of the States.

On February 28, 1991, the Secretary published in the **Federal Register** (56 FR 8610) a notice of eight final funding priorities from which the Secretary could select in conducting competitions for funds appropriated in FY 1991 and FY 1992. For FY 1991, the Secretary awarded grants under two of those priorities—a national project for a system of credit exchange and accrual and a migrant stop-over site service center—and, for FY 1992, intends to make continuation awards to these grant recipients.

Since publication of the notice of absolute priorities, migrant education officials in many States have asked the Department to determine whether section 1203 funds could be made available to enhance their efforts to recruit currently migratory children (those who have migrated across school district boundaries during the past 12 months). These officials believe that there may be significant numbers of currently migratory children residing in their States who do not benefit from the MEP because the SEAs have inadequate funds for identifying these children and recruiting them into the program. These officials have indicated that the problem is particularly acute in States with relatively small MEP formula allocations. Data provided to the Department by the Migrant Student Record Transfer System (MSRTS) also suggest that many other currently migratory children are identified in only one State, even though they crossed State boundaries.

Currently migratory children are among the Nation's neediest populations, and a more concerted effort is needed to identify and recruit these children. Large numbers of children who could benefit from the supplemental educational services that the MEP offers are never identified in any of the several States in which they reside during the year.

This priority seeks to help States to provide appropriate supplemental MEP assistance to currently migratory children, thereby helping to ensure that those children reach the higher levels of achievement called for in AMERICA 2000, the President's strategy to help the Nation move itself toward the six National Education Goals. MEP programs for preschool and school-aged children are designed to help migratory children enter school ready to learn (Goal 1), increase their high school graduation rate (Goal 2), and demonstrate competency in challenging subjects such as English, mathematics, science, history, and geography (Goal 3). In addition, MEP programs help young adults attain full literacy and increase their ability to compete in a global economy and exercise the rights and responsibilities of citizenship (Goal 5).

So that greater numbers of currently migratory children may benefit from the MEP and the assistance it provides in helping the Nation to meet these goals, the Secretary proposes this new funding priority. Under this priority, the Secretary would reserve a portion of funds available for the FY 1992 Migrant Education Coordination projects for competitive grants to SEAs whose MEP allocations are inadequate to enable them to identify and recruit all the currently migratory children who move to or pass through their States, and to expand and strengthen the capacity of States to recruit these children in ways that may yield permanent benefit while retaining a needed focus on activities that promote interstate or intrastate coordination. Publication of this notice of proposed priority follows discussions at a December 1991 meeting of the National Association of State Directors of Migrant Education (NASDME) about the need to find ways to identify and recruit more currently migratory children. At that meeting, NASDME concurred with a proposal to use section 1203 funds to support projects described in this proposed priority.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference under the Migrant Education Coordination Program for SEAs for the following priority. Assuming the availability of funds, the Secretary would reserve funds under section 1203 of the Act for competitive grants to SEAs only for projects that implement this priority.

Proposed Priority

Under this priority, SEAs would compete for grants to cover the costs of supplemental efforts to identify and recruit currently migratory children who are found to be residing in their States during portions of the grant period. Funds would be made available to SEAs whose 1991–92 or 1992–93 MEP project year allocations are insufficient to permit full recruitment of currently migratory children in their States. The Secretary will consider only applications from SEAs that establish the likelihood that a State's proposed activities will address unmet national needs by increasing the number of identified currently migratory children beyond levels now permitted by its MEP allocations.

Aside from recruiting these children and entering data on them into the MSRTS, recipients would undertake activities to enhance the likelihood that currently migratory children found in one State will subsequently be identified in other States to which the children migrate, so that MEP services on an interstate or intrastate basis can become more available to these children.

At a minimum, project activities would have to include—(1) development of a plan of operation that promotes the most efficient and effective use of program funds for supplemental activities designed to recruit additional currently migratory children into the MEP under 34 CFR 201.20(a)(3) and 201.30; (2) assessment of these children's special educational needs, as required by 34 CFR 201.32 and, where possible, provision of necessary instructional or support services to them; and (3) special activities designed to enhance the likelihood that these children will continue to be recruited and served by the MEP as they migrate within the State or to other States. These special activities would include, but not be limited to—

(a) Advance notification, on the basis of information gathered during the recruitment and any follow-up interviews, to other States and localities of the locations to which the children are expected later to move and their expected dates of arrival;

(b) Communication with those other States and localities to determine whether the children made those moves and were subsequently recruited;

(c) Use of the recruitment interview to determine whether the children's families have migrated previously to the location in which they were identified, and whether they are likely to do so in the future;

(d) Development and distribution of oral and written information to parents and guardians of migratory children on the MEP and its parental involvement components, and on how to contact school officials and service agencies in all other locations to which they migrate; and

(e) Recruitment efforts planned for future years, using the SEA's allocation of MEP funds, in those areas of the State in which currently migratory children are found to be likely to return.

SEAs would be required to coordinate, to the extent possible, all recruitment and other activities with other States to or from which identified children migrate and to seek appropriate assistance from MEP coordination centers, the Chapter 1 Technical Assistance Centers and the Rural Technical Assistance Centers.

Restrictions on the Use of Project Funds

To ensure that activities funded under this priority are used to recruit migratory children whom an SEA otherwise would not identify, program funds could be used only for recruitment activities that supplement, rather than supplant, resources that the SEA otherwise would expend on the State's recruitment activities. Moreover, as activities designed to promote interstate or intrastate coordination, funds awarded under this competition could not be targeted for identifying or recruiting formerly migratory children.

Proposed Competitive Preference and Other Considerations

The Secretary also proposes to give a competitive preference under 34 CFR 75.105(c)(2) of up to 15 additional points to applicants that establish, under the selection criterion in 34 CFR 205.31(a)(2) (yielding a maximum of 25 points), the likelihood that their States' "proposed activities address unmet national needs" by increasing the number of identified currently migratory children beyond levels now permitted by their MEP allocations.

Depending on the availability of funds, the Secretary proposes to allocate up to $1.2 million from funds appropriated in FY 1992 only for projects that meet this priority. In keeping with the belief that insufficient recruitment may be particularly severe in States that receive relatively small MEP allocations, the Secretary proposes to award grants from two different applicant pools. One pool would consist of SEAs whose MEP allocations for either the 1991–92 or 1992–93 program years were $500,000 or less. Fourteen States would qualify for this pool on the basis of 1991–92 program year allocations. The other applicant pool would be open to all other SEAs. Of the total amount made available to the Secretary, up to two-thirds would be available for awards to the smaller allocation SEAs. The remainder would be available for awards to the larger allocation SEAs. The actual amounts awarded to SEAs in each pool of applicants would depend on both the total amount of funds available to fund activities that support this priority and the number and quality of applications. The Secretary believes that these procedures will permit program funds to be concentrated in States with the most limited means to recruit migratory children, and at the same time, allow SEAs with larger MEP allocations, but with a demonstrable need for additional funds with which to recruit these children, the opportunity to benefit from the program.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 2149, FOB–6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations 34 CFR part 205.

Program Authority: 20 U.S.C. 2783.

(Catalog of Federal Domestic Assistance Number 84.144, Chapter 1—Migrant Education Coordination Program for State Educational Agencies)

Dated: June 10, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92–14055 Filed 6–15–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award Grant to American Statistical Association

AGENCY: Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.7(b)(2)(i)(B), it is making a discretionary financial assistance award based on acceptance of an unsolicited application under Grant Number DE–FG01–92EH89227. The purpose of the grant is to support an international conference of recognized experts on the quantitative aspects of the health effects of both ionizing and non-ionizing

radiation and on the interaction of radiation with other agents such as chemicals. This effort will have a total estimated cost of $75,000 to be provided by the DOE.

SUPPLEMENTARY INFORMATION: The grant will provide funding to the American Statistical Association (ASA) to organize and hold its "Tenth ASA Conference on Radiation and Health" at the Hyatt Regency in Hilton Head Island, South Carolina, from June 28, 1992, through July 2, 1992. The goal of this conference is to open new areas of concern such as the role other risk factors play in radiation risk and to further investigate the results and methodological techniques of some long-term studies. Additionally, the conference participants will discuss the applicability of meta-analysis in the study of radiation risks.

The project is meritorious because of its relevance to the accomplishment of an important public purpose—the interchange and dissemination of results from studies on copromotion, residential radon, miners occupationally exposed to radon, nonionizing radiation, combined radiation and chemical exposures, and health surveillance of the DOE workforce.

Based on the evaluation of relevance to the accomplishment of a public purpose, it is determined that the proposal represents a beneficial method and approach to transmitting the most current data and to developing new areas of concern. Quantitative aspects of the health effects of both ionizing and non-ionizing radiation and the interaction of radiation with other agents such as chemicals will be discussed.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Jeffrey R. Dulberg, PR-322.4, 1000 Independence Avenue, SW., Washington, DC 20585.

Richard G. Lewis, Acting Director,
Program Support Division, Office of Placement and Administration.

[FR Doc. 92-14106 Filed 6-15-92; 8:45 am]
BILLING CODE 6750-01-M

Energy Information Administration

Forms EIA-412, 759, 826, 860, 861, and 867 (Electric Power Program Package)

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of the Proposed Extension of the Forms EIA-412, 759, 826, 860, 861, and 867 (Electric Power Program Package) and solicitation of comments concerning proposed changes.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub. L. 96-511, as amended, 44 U.S.C. 3501 *et seq.*), conducts a pre-survey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program ensures that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed revisions and a three-year extension of approval for its electric power forms. These forms include: Form EIA-412, "Annual Report of Public Electric Utilities;" Form EIA-759, "Monthly Power Plant Report;" Form EIA-826, "Monthly Electric Utility Sales and Revenue Report with State Distributions;" Form EIA-860, "Annual Electric Generator Report;" Form EIA-861, "Annual Electric Utility Report;" and Form EIA-867, "Annual Nonutility Power Producer Report.".

DATES: Written comments must be submitted on or before July 16, 1992. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so, as soon as possible.

ADDRESSES: Send comments to John G. Colligan, Energy Information Administration (EI-521), 1000 Independence Avenue, SW., U.S. Department of Energy, Washington, DC 20585 (telephone number: 202-254-5465).

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORMS AND INSTRUCTIONS: Requests for additional information or copies of the forms and instructions should be directed to John G. Colligan at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Current Actions.
III. Request for Comments.

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93-275) and the Department of Energy Organization Act (Pub. L. 95-91), the Energy Information Administration is obliged to carry out a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs. To meet this responsibility, as well as internal DOE requirements that are dependent on accurate date, the EIA conducts statistical surveys that encompass each significant source of electric power, distribution and consumption activity in the United States.

II. Current Actions

The EIA proposes the following changes and improvements:

- Deleting data items no longer required;
- Adding data items for analysis;
- Improving the clarity of the instructions; and
- Improving the design of the forms.

EIA proposes a three-year extension with changes to its existing collections. These changes will have little impact on respondent burden, better reflect current industry operations and enable EIA to respond accurately to congressional, Federal and public data users' requirements. The proposed changes are summarized below:

1. Form EIA-412

To minimize burden and eliminate duplication or obsolete data, eight schedules of the Form EIA-412 have been revised.

a. Schedule I: Electric Utility Balance Sheet.

Clarified the reporting instructions for the Electric Utility Plant elements to include Nuclear Fuel assets. Uniform System Account numbers have been added as an aid in definition. The number of requested data elements on this schedule, however, remain the same.

b. Schedule II: Electric Utility Income Statement for the Year.

A data element, Other Electric Deductions, has been added to clarify the composition of Electric Utility Income.

c. Schedule III: Electric Utility Plant

A line has been added to include Nuclear Fuel to clarify the composition of Electric Utility Plants for the "Balance Beginning of Year" and the "Balance End of Year."

d. Schedule IV: Taxes, Tax Equivalents Contributions, and Services During Year

Columns "d", "Amount of Contribution/Value of Service Included in Financial Statements," and "e", "Amount of Contribution/Value of Service Not Included in Financial Statements," have been deleted as this information has limited use. This action will eliminate 24 data elements from the schedule.

e. Schedule V: Sales of Electricity for Resale

The codes required for column (b), "Sales Code Type," have been reduced from seven to three to lessen burden. The data elements, "Point of Receipt" and "Kilovolts at Which Delivered," have been replaced with "Demand Charges" and "Energy/Other Charges" to improve the financial reporting of resales.

f. Schedule VI: Electric Utility Operation and Maintenance Expenses

Changes have been made to column (c), "Maintenance Expenses" to blank out four data elements that cannot be expensed. Added to the schedule are the number of Electronic Department employees to monitor the productivity and the implementation of Financial Accounting Standards Board (FASB) 106 on post-employment benefits.

g. Schedule VII: Purchase Power

The codes required for column (6), "Purchase Code Type," have been reduced from seven to four to lessen the burden. To improve the financial reporting of purchases and exchanges, the data elements, "Point of Receipt" and "Kilovolts at Which Received," have been replaced with "Demand Charges" and "Energy/Other Charges".

h. Schedule VIII: Electric Energy Account

Reporting under "Sources of Energy," the transmission data elements have been modified to be consistent with collection efforts on the investor-owned electric utilities (FERC Form 1). Likewise, under the "Disposition of Energy," Sales for Resale have been divided into "Requirements" and "Nonrequirements" and the Energy Losses consolidated from 3 entries into "Total."

2. Form EIA–759

Changes and revisions have been made to the instructions only. The revisions clarify the instructions making them easier to read. There are no changes to the form itself or to the format.

3. Form EIA–826

Changes and revisions have been made to the instructions only. The revisions clarify the instructions making them easier to read. There are no changes to the form itself or to the format.

4. Form EIA–860

No Changes Proposed.

5. Form EIA–861

Schedule V: Demand Side Management (DSM) Information. Mandatory reporting is required of all utilities that have a DSM program. Schedule V has been modified to provide detailed DSM information on energy, load, and cost by program category and consuming sector (residential, commercial, industrial, and other). The information is collected for current year, cumulative and incremental effects. The ten year forecasts of DSM affects have been replaced by a first and fifth year projection. A checklist has been added for measurement and evaluation techniques.

6. EIA–867

Reporting requirements have been changed. Owner/operators with facility generators' total nameplate rating(s) of 1 to 5 megawatts will file a limited report annually (previously, these facilities filed every 3 years). There is no change in reporting for units of 5 megawatts and above.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed extension and revisions. The following general guidelines are provided to assist in the preparation of responses. Please indicate to which form or forms your comments apply.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarifications?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden for this collection is estimated to average (hours per response) for each of the following forms is shown below:

EIA–412=33.2 hrs.; EIA–759=1.4 hrs.; EIA–826=1.8 hrs.; EIA–860=16.1 hrs.; EIA–861=6.9 hrs.; EIA–867=2.27 hrs.

How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require to complete and submit the required form(s)?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How could the form be improved?

G. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the means of collection.

As a potential user:

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Please be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their views on the need for the information contained in the Electric Power Program Package.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the forms; they also will become a matter of public record.

Statutory Authorities: Sections 5(a), 5(b), 13(b), and 52 of Pub. L. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b) and 790a.

Issued in Washington, DC June 1, 1992.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 92–14107 Filed 6–15–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RM84–6–037]

Refunds Resulting From Btu Measurement Adjustments

June 10, 1992.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of decision to cease collection efforts.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is ceasing efforts to recover overdue Btu refunds in 124 cases. The Commission believes that further efforts are not warranted since such efforts are not

likely to result in the payment of any Btu refunds. The cases include (1) 111 cases where the first seller cannot be located and (2) 13 cases where the first seller's assets have been liquidated during Chapter 7 bankruptcy proceedings and the company ceased operations. The Commission, however, is not waiving the refund obligation and emphasizes that a case may be reactivated and refunds may be pursued if a first seller is subsequently located.

DATE: This notice was issued June 10, 1992.

FOR FURTHER INFORMATION CONTACT: Garry L. Penix, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–0622.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, all interested persons may inspect or copy the contents of this document during normal business hours in room 3308 at the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuane Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accesssed using a personal computer with a modem by dialing (202) 208–1297. To access CIPS, set your communications software to use 300, 1200 or 2400 brand full duplex, no parity, 8 data bits, and 2 stop bit. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The computer text on diskette in WordPerfect format also may be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street NE., Washington, DC 20426.

Decision To Cease Efforts To Collect Certain Btu Refunds

June 10, 1992

Take notice that for the reasons set forth below the Federal Energy Regulatory Commission (Commission) will cease its efforts to recover overdue Btu refunds in 124 cases. The Commission believes that further efforts are not warranted since such efforts are not likely to result in the payment of any Btu refunds. The cases include (1) 111 cases where the first seller cannot be located and (2) 13 cases where the first seller's assets have been liquidated during chapter 7 bankruptcy proceedings and the company ceased operations.[1] The Commission emphasizes, however, that it is not waiving or extinguishing the Btu refund obligation. The Commission's staff will maintain a database so that it can reactivate a case if a first seller is found and if circumstances warrant pursuing payments.

Background

In 1983, the United States Court of Appeals for the District of Columbia Circuit vacated the Commission's regulations that permitted first sellers to measure the Btu content of natural gas based on the condition of the gas as delivered (the "dry rule") and required maximum lawful prices under the Natural Gas Policy Act of 1978 (NGPA) to be calculated by measuring the Btu content under the "wet" rule used under the Natural Gas Act.[2]

In Order No. 399, *et seq.*,[3] the Commission required first sellers to refund all overcharges due to using the dry rule by November 5, 1986.[4] In addition, the Commission required interstate and intrastate pipelines to file reports identifying first sellers who had not paid their Btu refunds.[5] The Commission also required interstate pipelines to flow the Btu refunds through to their customers.[6]

Order Nos. 399, *et seq.* resulted in refunds of more than $1 billion. However, pipelines reported 5,610 cases involving over $140,000,000 in unpaid Btu refunds. The Commission's staff has actively pursued payment of outstanding Btu refund obligations and has sent more than 4,000 letters directing payment of Btu refunds. As of May 1, 1992, staff's efforts have reduced the number of pending Btu refund cases to 692 with a total refund obligation of approximately $28.7 million.

Discussion

The Commission previously ceased collection efforts in 356 Btu cases where staff could not find the first seller and 45 cases where the first seller's assets had been liquidated under Chapter 7. The Commission published notice of its decisions in the **Federal Register**.[7] In these cases, the Commission stated that it had taken every reasonable step to pursue payment of the refunds and found that expending further resources was unwarranted since no refunds were likely to be paid in those cases.

Staff's ongoing efforts have identified additional cases where expending further staff resources is unlikely to result in the payment of any refunds. Therefore, the Commission has determined to cease its collection efforts in the following cases:

I. 111 Cases Where First Sellers Cannot Be Found

Appendix A lists the first sellers in 111 pending cases where all of staff's letter directing payment of Btu refunds were returned as undeliverable. Staff sent letters to every address it obtained for each first seller from the Energy Information Administration files, the Commission user fee files, interstate and intrastate pipelines, directory assistance at the area code of the first seller's last known address, and reference books in the Commission's library. The refund obligations in these 111 cases range from $115.67 to $208,363.71; the sum of the refund obligations is $1,061,966.46.[8]

Dollar range	Number of cases	Refund obligation
$100,001–$210,000	2	$352,048.55
50,001–100,000	4	262,131.97
25,001–50,000	4	129,733.51
2,001–25,000	37	269,301.27
100–2,000	64	48,751.16

II. 13 Cases Where the First Sellers' Assets Have Been Liquidated

The assets of the first sellers listed in Appendix B were liquidated during Chapter 7 bankruptcy proceedings and the companies have ceased operations. The refund obligations in these 13 cases range from $308.54 to $45,688.12; the sum of the refund obligations is $154,700.12.[9]

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[1] The names of these first sellers are set forth on appendices A and B. Since some first sellers owe refunds to more than one pipeline, the number of first seller names set forth on the appendices is less than the number of cases.

[2] *Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission* 716 F.2d 1 (D.C. Cir. 1983), cert. denied, 465 U.S. 1108 (1984).

[3] Order No. 39, FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶30,597; Order No. 399–A FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶30,612; Order No. 399–B, FERC Stats. & Regs. [Regulation Preambles 1982–1985], ¶30,651.

[4] Btu refunds generally were required for sales made from December 1, 1978 until September 1983.

[5] The order required pipelines to file the reports by December 18, 1984, June 17, 1985 and January 5, 1987.

[6] The Commission did not impose that condition on intrastae pipelines receiving the refunds. Where a state regulatory agency regulates the intrastate pipelines within its jurisdiction, it may determine the disposition of Btu refunds received by those pipelines.

[7] The notices were published in the **Federal Register** on August 6, 1990 (55 FR 32028) and February 14, 1991 (56 Fed. Reg. 6000). The notices emphasized that the Commission was not waiving or extinguishing the Btu refund obligations and that cases would be reactivated if the first sellers were subsequently located.

[8] The dollar range in these cases is as follows:

[9] The dollar range in these cases is as follows:

Dollar range	Number of cases	Refund obligation
$25,001-$50,000	3	$103,445.92
2,001-25,000	5	49,310.77
300-2,000	5	1,943.43

In consideration of the foregoing, the Commission takes the action as set forth above.

By direction of the Commission.

Lois D. Cashell,

Secretary.

Appendix A

First Sellers That Cannot Be Located

A.L. Phillips
Acadiana Reserves, Inc.
Allgood/Bramlett & Associates
Alliance Exploration Corporation
Allied Production Corporation
American Crude, Inc.
AMGO, Inc.
Arbor Petroleum Corporation
B&B Oil & Gas Company, Inc.
B&T Oil Company
Bartelleu Development
Bayside Petroleum
Berry Petroleum Corporation
Blocker Exploration Company
Bronco Energy
Byron A. Williams II
Calvert Western Exploration
Carmea, Inc.
Carr Exploration, Inc.
Century Mineral Corporation Agent for Great Southern Oil & Gas
Cola Petroleum, Inc.
Corpening Enterprises
Custom Oil Exploration, Inc.
D&S Investments, Inc.
D.W. Underwood
DAC Pipeline Company
Dalco Petroleum U.S. Ltd.
David M. Phillip
DFC Oil & Gas Company
Dunn-Mar Oil & Gas Company
Dynex Energy, Inc.
East Millsap Venture Ltd.
Ed Kirkpatrick
Edward Gerber Ancillary Administrator of Will of Nat Gerber
Elaion I.N.V. c/o Gruy Management Services
Enbloc Petroleum, Inc.
Explora Oil Corp, N.V. c/o Mineral Income
Fargo Trading Company, Inc.
Ferguson Oil Company, Inc.
Fluid Power Pump Company
Fraley Oil Company, Inc.
Freeman Oil Company
Fusulina Petroleum Corporation
Gemara Pipeline, Inc.
Gold Lake Oil Company, Inc.
Golden Eagle I
H&G
H&W Gas Systems
Holden, J.E.
Hulen H. Lemon
Integral Energy Corporation
Internationaler Energy Funds
Jade Petroleum Corporation
Jojon Petroleum Company
Kaneb Oil & Gas Company
Lanaux Walter T. Oil & Gas Properties
Lifestyle Energy Corporation
Lloyd R. Stahl
Malka Production Company
Martin Exploration Company
Martin Oil Company
Matagorda Exploration Inc./Alliance Well Service Inc.
McCabe Petroleum Corporation
Mrs. Treon Finley
Nelson, Harry E.
Nicholas Petroleum Company
Nicor Drilling Company
NRM Petroleum Corporation
OBK, Inc., KM Acc't
Odyssey Resources (fka C F I Vegas 1980)
OFT Exploration, Inc.
PCSI
Prodex Operation Company
Progress Oil Company
Reeves Resources, Inc.
Regent Oil & Gas, Inc.
Seagull Resources, Inc.
Search Drilling Company
Sooner Locaters
Steedco Limited
Steve Warren & Associates, Inc.
Stimco Oil
Sunbelt Exploration, Inc.
Sundance Oil Company
Tepco Engineering, Inc.
The Operating Company
Tri-County Oil Corporation
Tri-Ex Oil
Tulsa Gas Gathering
Twiner Oil & Gas Corporation
United Gathering, Inc.
Universal Resources Corporation
W D L Enterprises, Inc.
Washington Cty Transmission
Wicklund Petroleum Corporation
Willow Pipe Line Company

Appendix B

First Sellers Whose Assets Have Been Liquidated

Barnett Serio Exploration Company
Barnett Serio Exploration Company for OMNI Partnership
D Gridley Enterprises
Dowco Petroleum
International Continental Energy
Louisiana Bank & Trust Company
Louisiana Bank & Trust Company for Miles Oil & Gas
Marlex Oil & Minerals, Inc.
RA-Gale Ltd.
Sesco Production Company

[FR Doc. 92-14109 Filed 6-15-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP92-184-000]

Columbia Gas Transmission Corp.; Petition for Waiver

June 10, 1992.

Take notice that Columbia Gas Transmission Corporation (Columbia) on June 2, 1992, filed a Petition for Authorization to Grant Waiver of certain provisions of Columbia's CDS Rate Schedule and any other provisions of the Commission's Regulations that may be necessary in order for Columbia to accommodate the request of New Jersey Natural Gas Company (New Jersey Natural) to nominate Standby Service for a portion of the gas received from Columbia under the CDE Rate Schedule.

Columbia states that it has received the request of New Jersey Natural to revise appendix A of its Service Agreement to provide Standby Service at the 50% level. Standby Service was established and incorporated into Columbia's CDS Rate Schedule as a service option October, 1989, pursuant to Columbia's Global Settlement. Under this option, a CD customer desiring Standby Service may make such election at the time of execution of its Service Agreement. New Jersey Natural was not a party to the Global Settlement, and its Service Agreement was executed in August, 1989, several months prior to approval of the Global Settlement. Therefore, New Jersey Natural was not given the opportunity to nominate Standby Service at the time of the execution of its Service Agreement.

New Jersey Natural has recently requested Columbia allow it to make such election. Columbia is willing to grant to recent CDS customers, on a nondiscriminatory basis, a waiver of the requirement that such election be made at the time of execution of the Service Agreement.

Columbia states that copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice, on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14051 Filed 6-15-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ92-4-2-001]

East Tennessee Natural Gas Co.; Proposed Changes In FERC Gas Tariffs

Issued June 10, 1992.

Take notice that on June 3, 1992, East Tennessee Natural Gas Company (East Tennessee) tendered for filing the following tariff sheets:

Effective May 1, 1992 (RP91-204-000 and RP90-111-000)

First Revised Volume No. 1

Substitute Twentieth Revised Sheet No. 4
Substitute Twentieth Revised Sheet No. 5

Original Volume No. 1A

Fifth Revised Sheet No. 6
Fifth Revised Sheet No. 7

Effective June 1, 1992 (TQ92-3-2)

First Revised Volume No. 1

Substitute Twenty-first Revised Sheet No. 4
Substitute Twenty-first Revised Sheet No. 5

Effective July 1, 1992 (TQ92-4-2)

First Revised Volume No. 1

Substitute Twenty-second Revised Sheet No. 4
Substitute Twenty-second Revised Sheet No. 6

East Tennessee states that on April 17, 1992, in Docket No. RP91-204-000 and RP90-111-000, East Tennessee filed a Motion For Limited Implementation of Settlement, in order to allow it to implement Article III, Section 1 of a Stipulation and Agreement filed on March 20, 1992. This portion of the settlement would allow East Tennessee to charge the settlement rates to any party that so requests in writing. On May 27, 1992, the Commission granted East Tennessee's motion contingent upon East Tennessee filing the necessary tariff sheets to put the settlement rates into effect.

East Tennessee states that on May 29, 1992, in Docket No. TQ92-3-2 East Tennessee filed an an out-of-cycle PGA to be effective June 1, 1992. East Tennessee states that it is filing substitute sheets to reflect the changes in the base tariff rates from the settlement. East Tennessee also states that it also filed on May 29, 1992 in Docket No. TQ92-4-2, its quarterly PGA to be effective July 1, 1992. East Tennessee states that it is also filing substitute sheets which reflect the base tariff rates from the settlement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE.,Washington, DC 20426, in accordance with rule 211 of the Commission's rules of practice and procedure 18 CFR 385.211. All such protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14038 Filed 6-15-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-187-000]

Florida Gas Transmission Co.; Petition for Waiver of Tariff Provisions

June 10, 1992.

Take notice that on June 8, 1992, Florida Gas Transmission Company (FGT), pursuant to Rule 207 of the Commission rules of practice and procedure, 18 CFR 385.207, tendered for filing a petition for waiver of its FERC Gas Tariff, Second Revised Volume No. 1, Section 18 of the General Terms and Conditions to permit FGT to bill the City of Starke (Starke) for the contract year ending September 30, 1992 for volumes taken in excess of Maximum Annual Transportation Quantities (MATQ) at the commodity rate under the FTS-1 Rate Schedule rather than under Rate Schedule G or an overrun rate.

FTS states that absent the granting of the waiver, under Section 18 of FGT's tariff it would be required to bill Starke for quantities taken in excess of contract MATQs at the rate applicable for service under a sales rate or an overrun rate. FGT states that the waiver will permit FGT to bill Starke for the service scheduled within daily contractual entitlements, but in excess of MATQs at the transportation rate under Rate Schedule FTS-1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14040 Filed 6-15-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-10-4-000; TM92-16-4-000]

Granite State Gas Transmission Inc.; Proposed Changes In Rates

June 10, 1992.

Take notice that on June 5, 1992, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581-5309 tendered for filing with the Commission the revised tariff sheets identified below in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness on July 1, 1992:

Fifteenth Revised Sheet No. 21
Sixth Revised Sheet No. 22

According to Granite State, its filing is the regular quarterly purchased gas cost adjustment based on projected gas costs and sales for the third quarter of 1992. It is further stated that, in addition to reflecting revised purchase costs, the sales rates include a revised Transportation Cost Adjustment based on Tennessee Gas Pipeline Company's revised Rate Schedule CGT-NE rate for the transportation service for Granite State's purchases from Boundary Gas, Inc.

It is stated that the proposed rate changes are applicable to Granite State's jurisdictional sales services rendered to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protect said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a

motion to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14045 Filed 6-15-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-634-019]

Iroquois Gas Transmission System, L.P.; Compliance Filing

June 10, 1992.

Take notice that Iroquois Gas Transmission System, L.P. ("Iroquois"), on May 22, 1992, tendered for filing with the Federal Energy Regulatory Commission ("Commission") proposed changes in its FERC Gas Tariff, Volume No. 1. The proposed changes have been made in compliance with the Commission's May 6, 1992 Order on Rehearing in Docket Nos. CP89-634-014 and RP92-25-002 and in compliance with the Commission's May 7, 1992 Order Terminating Technical Conference in Docket Nos. RP92-25-000, RP92-25-001, and MT92-1-000.

Iroquois states that copies of the filing were served upon Iroquois' jurisdictional customers and interested state regulatory commissions, and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rule 211 of the Commission's rules of practice and procedure 18 CFR 385.211. All such protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14046 Filed 6-15-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-5-16-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

June 10, 1992.

Take notice that on May 29, 1992, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective on July 1, 1992.

Sixth Revised Sheet No. 118
Fifth Revised Sheet No. 119
Fifth Revised Sheet No. 121
Fourth Revised Sheet No. 122

National states that the purpose of this filing is to update the amount of take-or-pay charges approved by the Federal Energy Regulatory Commission to be billed to National by its pipeline-suppliers and to be recovered by National by operation of section 20 of the General Terms and Conditions to National's FERC Gas Tariff, Second Revised Volume No. 1. National further states that its pipeline-suppliers which have received approval to bill revised take-or-pay charges, as reflected in National's filing herein, are: Columbia Gas Transmission Corporation, CNG Transmission Corporation, and Transcontinental Gas Pipeline Company.

National states that copies of its filing were served upon National's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 or 211 of the Commission's rules of practice and procedure 18 CFR 385.214 or 385.211). All such motions to intervene or protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14050 Filed 6-15-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT92-22-000

K N Energy, Inc.; Notice of Report of Refunds

June 10, 1992.

Take notice that K N Energy, Inc. (K N) on May 1, 1992, tendered for filing with the Commission its report of direct refunds made to its Jurisdictional Customers in accordance with the § 154.305(i) of the Commission's regulations. The regulations require direct refunds to jurisdictional customers if the credit balance in the refund subaccount exceeds the lesser of one cent per MMBtu of the actual annual sales or $2 million. K N states that K N's commodity refund subaccount exceeded the threshold in February 1992.

K N States that on April 30, 1992, K N refunded to its jurisdictional sales customers the February 29, 1992 balance of its Account No. 191 commodity refund subaccount. The refund, including carrying charges, totals $341,705. K N states that the total amount of the direct refunds, including carrying costs through April 30, is $341,705. In accordance with § 154.305(i)(2), the refund was made proportionally based on twelve months actual sales ending October 31, 1991.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary

[FR Doc. 92-14042 Filed 6-15-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA92-5-000]

O'Neill Properties, Ltd., Petition of Adjustment

June 10, 1992.

Take notice that on June 2, 1992, O'Neill Properties, Ltd. (O'Neill) tendered for filing with the Commission a petition for an adjustment under Rule 1104 of the Commission's regulations for a finding that the Jurisdictional Agency determination (Corporation Commission of Oklahoma, Cause No. 13385, Order No. 359308, 15 August 1991) made under 18 CFR 274.206, in applicable retroactive to December 1, 1998, to O'Neill's Angell 1-30 well located in Major County, Oklahoma.

The Producers applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with

the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Secretary.

[FR Doc. 92–14043 Filed 6–15–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RO92–186–000]

Texas Gas Transmission Corp; Petition for Limited Waiver

June 10, 1992.

Take notice that on June 5, 1992, Texas Gas Transmission Corporation (Texas Gas) hereby files a petition seeking a limited waiver of §§ 7.3 and 7.4 of its G Rate Schedule, section 8 of its GN and CDN Rage Schedules, and §§ 6.3 and 6.4 of its CD and CDL Rate Schedules, in order to allow customers served under those sales rate schedules to purchase volumes of gas in excess of their summer season billing demand D–2 quanity (D–2 quantity) through October 31, 1992, without incurring any seasonal D–2 overrun charges.

Texas Gas states that it submits the limited waiver of summer season D–2 overrun charges requested herein will allow Texas Gas to compete on an equal basis with other suppliers of gas and allow its customers to base their gas supply purchase decisions on market prices, unhindered by outdated regulatory constraints such as D–2 overrun charges.

Texas Gas requests that the Commission act upon the waiver expeditiously and seeks approval by July 1, 1992, in order to assist the supply planning decisions being made by affected customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken,but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the pubic reference room.

Lois D. Cashell,

Secretry.

[FR Doc. 92–14041 Filed 6–15–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM92–14–29–000

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

June 10, 1992.

Take notice that on June 8, 1992, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing Second Revised Sheet No. 44 to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheet is proposed to effective July 1, 1992.

Transco states that the purpose of the instant filing is to revise the fuel retention percentages applicable to firm and interruptible transportation (System Transportation) services on the Transco system. Transco states that it is proposing to reduce its currently effective System Transportation fuel retention factors by 35% in order to more closely align Transco's fuel retainage with actual fuel usage.

Transco states that copies of the filing have been mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92–14039 Filed 6–15–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM92–13–29–000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

June 10, 1992.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on June 5, 1992 Fourth Revised Third Revised Sheet No. 50 to its Third Revised Volume No. 1 of its FERC Gas Tariff which is proposed to be effective May 1, 1992.

Transco states that the purpose of the filing is to track rate changes attributable to (1) storage services purchased from Consolidated Natural Gas (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedule LSS and (2) transportation services purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rate Schedule FT the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT–NT. The tracking filing is being made pursuant to section 4 of Transco's Rate Schedule LSS and section 4 of Transco's Rate Schedule FT–NT.

Included in Appendices B and C attached to the filing are explanations and detailed computations regarding the proposed tracking changes under Rate Schedules LSS and FT–NT. Appendix B indicates that the rate change attributable to the GSS service purchased from CNG does not result in a rate change in the bundled rates under Transco's Rate Schedule LSS.

Transco states that copies of the filing are being mailed to each of its LSS and FT–NT customers and interested State Commissions.

Any person desiring to be heard or to protests said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14048 Filed 6-15-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-43-003]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

June 10, 1992.

Take notice that Williams Natural Gas Company (WNG) on June 4, 1992 tendered for filing a revision to its compliance filing made June 1, 1992, in Docket No. TA92-1-43-000, *et al.*

WNG states that the filing made June 1, 1992 contained a typographical error on Attachment B, page 1 of 8. The immediate filing is being made to correct this error.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14049 Filed 6-15-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-10-017

Williston Basin Interstate Pipeline Co.; Compliance Filing

June 10, 1992.

Take notice that on June 4, 1992, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, tendered for filing revised tariff sheets in compliance with the Commission's Order dated May 20, 1992.

The proposed effective date of the tariff sheets included in appendix A of the filing is May 20, 1992. In accordance with the requirements of the May 20, 1992 Order, additional tariff sheets were included in appendix B to reflect the Company's PGA in Docket Nos. TQ92-3-49-000 and TQ92-3-49-001 to be effective May 1, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's rules of practice and procedure 18 CFR 385.211. All such protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14047 Filed 6-15-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order During the Week of June 1 Through June 5, 1992

During the week of June 1 through June 5, 1992, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

Dated: June 9, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

Ernest E. Latsha, Inc., Harrisburg, PA, Reporting Requirements, LEE-0035

Ernest E. Latsha, Inc., (Latsha) filed an Application for Exception from the provision of filing Form EIA-863, entitled "Petroleum Product Sales Identification Survey." The Exception request, if granted, would permit Latsha to be exempted from filing Form EIA-863. On June 3, 1992, the Department of Energy issued a Proposed Decision and Order which determined that the Exception request be denied.

[FR Doc. 92-14111 Filed 6-15-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-81021A; FRL-4061-2]

TSCA Chemical Substance Inventory Removal of 61 Incorrectly Reported Chemical Substances from the TSCA Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In an earlier notice published in the Federal Register of September 5, 1991 (56 FR 43920), EPA announced its intent to remove from the Toxic Substances Control Act (TSCA) Chemical Substance Inventory 72 chemical substances or classes of chemical substances which were believed to have been incorrectly reported and listed. Fourteen comments were received in response to the September 5, 1991 notice. EPA has determined that 11 of the chemical substances mentioned in the September 5, 1991 notice have been manufactured or imported for distribution in commerce prior to the date of the notice or require additional consideration and review by the Agency. The remaining 61 chemical substances were incorrectly reported and listed on the Inventory. The 61 chemical substances listed in this document are deleted from the TSCA Inventory as of June 16, 1992.

EFFECTIVE DATE: The 61 chemical substances listed in this document are

deleted from the TSCA Inventory as of June 16, 1992.

ADDRESSES: A record of the nonconfidential versions of these comments is available for viewing and photocopying in the TSCA Public Docket Office, Northeast Mall, Rm. G004, 401 M St., SW., Washington, DC. Documents may be viewed from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION:

I. Background

EPA announced in the **Federal Register** of September 5, 1991 (56 FR 43920), its intent to remove from the Toxic Substances Control Act (TSCA) Chemical Substance Inventory 72 chemical substances which were believed to have been incorrectly reported and listed. Prior to the September 5, 1991 notice, persons who had originally reported the 72 chemical substances informed EPA that the chemical identities they reported to the Agency and included on the Inventory were incorrect. The corrected identities and in some instances, identities of additional chemical substances for these 72 chemical substances have been provided by the original submitters and added to the Agency's Master Inventory File. EPA reviewed each of these 72 chemical substances, as originally reported, to determine whether any other person had also reported the same chemical substance for the Inventory. No other manufacturers were found at the time. Therefore, in accordance with the established EPA policy that an erroneously or incorrectly reported chemical substance should be removed from the Inventory, EPA announced its intent to remove these chemical substances from the Inventory in the **Federal Register** of September 5, 1991 (56 FR 43920).

The **Federal Register** of September 5, 1991, solicited public comments on the proposed removal action. EPA was specifically interested in knowing whether any of the 72 chemical substances had been manufactured, imported, or processed for TSCA commercial purposes other than research and development, as defined in the Inventory Reporting Regulation (40 CFR 710.2), by anyone between the period of January 1, 1975 through September 5, 1991. EPA was also interested in knowing whether any person could show that any of the 72 chemicals substances could have been properly reported for the Inventory. EPA also solicited comments from anyone who believed that any of the chemical substances should not be removed from the TSCA Inventory for any reason.

EPA received 14 comments in response to the September 5, 1991 notice. Five comments pointed out that Chemical Abstracts Service Registry Numbers (CASRNs) 26375–31–5, 27306–78–1, 55850–01–6, 68440–71–1, and 68911–68–2 were among the 10 chemical substances that EPA had announced in the **Federal Register** of August 1, 1990 (55 FR 31312), to remain on the TSCA Inventory. Four comments requested that CASRNs 6222–63–5, 38613–77–3, 68554–60–9, respectively, not be removed from the Inventory. Three comments requested that "vegetable oil" (CASRN 68956–68–3) not be removed from the Inventory. One comment pointed out that the replacement CASRNs for CASRN 72245–33–1 were invalid. The valid replacement CASRNs should be 123209–70–1, 123209–71–2, and 123209–72–3. One comment inquired whether the replacement CASRN for 61951–98–2 is included in the TSCA Inventory.

II. Substances Not To Be Removed

The Agency acknowledged that inclusion of CASRNs 26375–31–5, 27306–78–1, 55850–01–6, 68440–71–1, and 68911–68–2 in the **Federal Register** of September 5, 1991 (56 FR 43920), was an error. Therefore, the Agency will not remove from the Inventory these five chemical substances.

The Agency will also retain CASRNs 6222–63–5, 38613–77–3, and 68554–60–9 on the Inventory because the submitters of the comments concerning these three chemical substances provided evidence indicating that these substances have been in commercial production or importation prior to September 5, 1991.

The Agency uncovered an error concerning CASRN 59707–20–9. This substance, which was reported by more than one original submitter during the Initial Inventory reporting period, should not have been included in the **Federal Register** of September 5, 1991 (56 FR 43920). Therefore, the Agency will retain this CASRN on the TSCA Inventory.

The CASRNs and Chemical Abstracts Service (CAS) Index Names of the aforementioned nine chemical substances not to be removed from the TSCA Inventory are as follows:

CASRN	CAS Index Name
6222–63–5	2-Naphthalenesulfonic acid, 7-(acetylamino)-3-[[4-(acetylamino)phenyl]azo]-4-hydroxy-, monosodium salt
26375–31–5	2-Propenoic acid, 2-methyl-, polymer with ethene and ethenyl acetate
27306–78–1	Poly(oxy-1,2-ethanediyl), .alpha.-methyl-.omega.-[3-[1,3,3,3-tetramethyl-1-[(trimethylsilyl)oxy]disiloxanyl]propyl]
38613–77–3	Phosphonous acid, [1,1'-biphenyl]-4,4'-diylbis-, tetrakis[2,4-bis(1,1-dimethylethyl)phenyl]ester
55850–01–6	3H-Indolium, 1,3,3-trimethyl-2-[(methylphenylhydrazono)methyl]-, chloride
59707–20–9	Phosphoric acid, monooctyl ester, compd. with 2,2'-iminobis[ethanol] (1:2)
68440–71–1	Siloxanes and Silicones, di-Me, Me 3-(oxiranylmethoxy)propyl
68554–60–9	Siloxanes and silicones, di-Me, polymers with ethylene glycol, isophthalic acid, Me Ph silsesquioxanes, terephthalic acid and trimethylolpropane
68911–68–2	Amines, C12-14-tert-alkyl, compds. with 2(3H)-benzothiazolethione

The Agency uncovered an error associated with CASRN 72828–11–6 in the **Federal Register** Notice of September 5, 1991 (56 FR43920). CASRN 72828–11–6 was intended to be listed under "CASRNs of Incorrectly Reported

Substances." However, it was inadvertently listed under the "CASRNs of Replacement Chemicals." The Agency will publish this CASRN again in a future **Federal Register** to solicit public comment on the appropriateness of its removal from the TSCA Inventory.

The Agency will temporarily retain "vegetable oil" (CASRN 68956-68-3) on the TSCA Inventory to allow EPA's Chemical Inventory Section to further evaluate the comments received. The Agency will publish in the future **Federal Register** notice the decision on whether or not the chemical substance should be removed from the Inventory.

III. Substances that are Removed from the Inventory

The Agency concluded that the remaining 61 chemical substances were not manufactured, imported, or processed for commercial purposes between January 1, 1975 and September 5, 1991, and thus are not eligible for continued inclusion on the Inventory. Therefore, Premanufacture Notification (PMN) requirements of section 5(a) of TSCA would apply to future manufacture or import of any of these 61 chemical substances. The 61 chemical substances to be removed from the Inventory are listed below in ascending CAS Registry Number sequence, and by their corresponding Chemical Abstracts Service (CAS) Index Names:

Chemical Substances Removed from the TSCA Inventory

CASRN	CAS Index Name
128-49-4	Butanedioic acid, sulfo-, 1,4-bis(2-ethylhexyl) ester, calcium salt
496-03-7	Hexanal, 2-ethyl-3-hydroxy-
922-32-7	Glycine, N-[imino(phosphonoamino)methyl]-N-methyl-, disodium salt
3343-24-6	Benzeneundecanoic acid
5988-51-2	Ethanol, 2-(dimethylamino)-, [R-(R*,R*)]-2,3-dihydroxybutanedioate (1:1) (salt)
10116-15-1	2,7-Naphthalenedisulfonic acid, 5-(acetylamino)-4-hydroxy-3-[[2-methoxy-5-[[2-(sulfooxy)ethyl]sulfonyl]phenyl] azo]-
10149-98-1	1H-Pyrazole-3-carboxylic acid, 4,5-dihydro-5-oxo-4-[[4-[[2-(sulfooxy)ethyl]sulfoxyl]phenyl] azo]1-(4-sulfophenyl)-
12002-22-1	.alpha.-D-Glucopyranoside, .beta.-D-fructofuranosyl, mono-2-propenyl ether
13147-57-4	Acetic acid, (phosphonooxy)-
25497-66-9	1,4-Benzenedicarboxylic acid, polymer with 2,2,4-trimethyl-1,6-hexanediamine and 2,4,4-trimethyl1,6-hexanediamine
25619-63-0	Benzene, dodecylphenoxy-
26898-17-9	Benzene, methylbis(phenylmethyl)-
28679-10-9	Cyclohexanedithiol, ethyl-
30260-72-1	Benzenesulfonic acid, dodecyl(sulfophenoxy)-
30260-73-2	Benzenesulfonic acid, oxybis[dodecyl-
35254-10-5	1H-Xantheno[2,1,9-def]isoquinoline-1,3(2H)-dione, 2-(2-hydroxypropyl)-5-methoxy-
38806-92-7	Phenol, 4,4'-(1-methylethylidene)bis-, polymer with (chloromethyl)oxirane and 1,1'methylene-bis[4-isocyanatobenzene]
43094-71-9	Oxirane, polymer with ethene
52609-16-2	Poly(oxy-1,2-ethanediyl), .alpha.-(2,2,6,6-tetramethyl-4-piperidinyl)-.omega.-hydroxy-
54471-98-6	2-Propenoic acid, 2-methyl-, methyl ester, polymer with N,2-dimethyl-N-(2-methyl-1-oxo-2-propenyl)-2-propenamide
55963-78-5	Benzene, 1-methoxy-4-(1-propenyl)-, (E)-, homopolymer, sulfonated, sodium salt
61951-98-2	2-Naphthalenecarboxamide, N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-hydroxy-4-[[5-methoxy-2-methyl-4-[(methylamino) sulfonyl]phenyl]azo]-
62587-77-3	Tetradecenoic acid, 2-bromo-, methyl ester
64659-59-2	Cuprate(4-), [5-(acetylamino)-4-hydroxy-3-[[5-hydroxy-6-[[2-hydroxy-5-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo]-7-sulfo-2-naphthalenyl]azo]-2,7-naphthalenedisulfonato(6)]-, tetrahydrogen
65652-34-8	1,6-Hexanediol, compd. with N-butyl-N-ethyl-1-butanamine (1:2)
66272-25-1	Poly(oxy-1,2-ethanediyl), .alpha.-isododecyl-.omega.-hydroxy-, phosphate
68071-06-7	Phenol, 4,4'-(1-methylethylidene)bis-, polymer with (chloromethyl)oxirane, (Z)-2-butenedioate 2-propenoate
68084-37-7	2-Naphthalenecarboxamide, N-(2,4-dimethoxyphenyl)-3-hydroxy-7-methoxy-
68131-25-9	Soybean oil, polymer with benzoic acid, p-tertbutylphenol, formaldehyde, glycerol, isophthalic acid and pentaerythritol
68258-79-7	Nonanoic acid, polymer with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol
68298-91-9	1-Naphthalenesulfonic acid, 4-[(3-hydroxy-1-oxo-2-butenyl)amino]-
68399-92-8	Ethanol, 2,2'-[[3-chloro-4-[[4-[[2-(sulfooxy)ethyl] sulfonyl]phenyl]azo]phenyl]imino]bis-, bis(hydrogen sulfate)(ester)
68399-93-9	2,7-Naphthalenedisulfonic acid, 4-amino-6-[[2,5-dimethoxy-4-[[2-(sulfooxy)ethyl]sulfonyl] phenyl]azo]-5-hydroxy-3-[[4-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo]-
68440-59-5	Siloxanes and Silicones, diethoxy
68440-64-2	Siloxanes and Silicones, di-Me, di-Ph, polymers with Me Ph silsesquioxanes
68442-10-4	9,12-Octadecadienoic acid (Z,Z)-, dimer, polymer with bisphenol A, carboxy-terminated acrylonitrile-butadiene polymer and epichlorohydrin
68525-97-3	Fatty acids, coco, polymers with isophthalic acid, neopentyl glycol and trimellitic anhydride

Chemical Substances Removed from the TSCA Inventory—Continued

CASRN	CAS Index Name
68541-42-4	2-Propenoic acid, 2-methyl-, telomer with ethenylbenzene, ethyl 2-propenoate and isooctyl 3-mercaptopropanoate
68554-47-2	Siloxanes and Silicones, bis(2-ethylbutyl), polymers with 2-ethylbutyl silsesquioxanes, 2-ethylbutyl-terminated
68584-48-5	Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.hydroxy-, mixed monoisooctyl and monotridecyl ethers, phosphates
68908-44-1	Sulfuric acid, mono-C10-16-alkyl esters, compds. with ethanolamine
68989-70-8	Fatty acids, C18-unsatd., dimers, polymers with C18-unsatd. alkyl amine dimers and sebacic acid
69012-02-8	Castor oil, polymer with benzoic acid, glycerol, phthalic anhydride, soybean oil and toluene
69430-45-1	Siloxanes and Silicones, di-Me, reaction products with polyethylene glycol monallyl ether and 1,1,3,3-tetramethyldisiloxane
69834-19-1	Benzene, 1,1'-oxybis[dodecyl-
69855-99-8	Furan, tetrahydro-, polymer with ammonia and 2,2'-[(1-methylethylidene)bis(4,1-phenyleneoxymethylene)]bis[oxirane]
70210-28-5	Benzoic acid, 5-[[4'-[[6-amino-5-(1H-benzotriazol-5-ylazo)-1-hydroxy-3-sulfo-2-naphthalenyl]azo]-3,3'-dimethoxy[1,1'-biphenyl]-4-yl]azo]-2-hydroxy-4-methyl-, disodium salt
70693-19-5	Copper, [29H,31H-phthalocyaninato(2-)-N29,N30,N31,N32]-, aminosulfonyl[[3-[[(3,6-dichloro-4-pyridazinyl)carbonyl] amino]-4-methyl-5-sulfophenyl] amino]sulfonyl sulfo derivs.
71002-41-0	Poly(difluoromethylene), .alpha.-[2-(acetyloxy)-2-[(carboxymethyl)dimethylammonio]ethyl]-.omega.fluoro-, hydroxide, inner salt
71617-64-6	2-Propenenitrile, polymer with 1,3-butadiene, carboxy-terminated, polymers with epichlorohydrin-formaldehyde-phenol polymer
72138-97-7	Benzenesulfonic acid, 3,3'-(1,3,6,8-tetrahydro-1,3,6,8-tetraoxobenzo[lmn][3,8]phenanthroline-2,7-diyl)bis[6-[(4-amino-6-chloro-1,3,5-triazin-2-yl)amino-, disodium salt
72245-33-1	2-Propenenitrile, polymer with 1,3-butadiene, carboxy-terminated, polymer with bisphenol A diglycidyl ether homopolymer
72391-11-8	Hexanedioic acid, polymer with N-(2-aminoethyl)-1,2-ethanediamine, (chloromethyl)oxirane, 2,2-dimethyl-1,3-propanediol, 2-(methylamino)ethanol and 4,4'-(1-methylethylidene) bis[phenol] acetate (salt)
72441-90-8	Formaldehyde, polymer with 1,3-benzenedimethanamine, 4-(1,1-dimethylethyl)phenol, octylphenol and trimethyl-1,6-hexanediamine
72828-14-9	Phenol, polymer with formaldehyde, ethoxylated, polymers with ethylene oxide, propylene oxide and TDI
73398-65-9	Siloxanes and Silicones, di-Me, [(1-oxo-2-propenyl)oxy]methy group-terminated
75864-20-9	Peanut oil, polymer with maleic anhydride, phthalic anhydride, triethylene glycol and trimethylolpropane
96416-91-0	1,3-Propanediamine, N-(2-aminoethyl)-, polymer with (chloromethyl)oxirane and 1,2-dichloroethane, formate
97645-28-8	Pentaneperoxoic acid, 2,2-dimethyl-, 1-methyl-1-phenylethyl ester
97676-34-1	Oils, oak
111368-19-5	2-Propenoic acid, polymer with ethenol, sodium salt, graft

Accordingly, the 61 chemical substances listed above are deleted from the TSCA Inventory as of June 16, 1992.

Dated: June 8, 1992.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-14097 Filed 6-15-92; 8:45 am]

BILLING CODE 6560-50-F

Coastal Nonpoint Source Pollution Management Measures Guidance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of additional information and request for comment.

SUMMARY: Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 requires EPA to publish guidance on management measures for sources of nonpoint pollution in coastal waters. The statute defines "management measures" as economically achievable measures * * * which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint control practices, technologies, processes, siting criteria, operating methods, or other alternatives. On June 14, 1991, EPA announced the availability for public review and comment of proposed guidance under this section.

Since publication of the proposed management measures guidance, EPA has investigated the economic achievability of the proposed management measures. The following reports are now available for review and comment:

• Assessment of the achievability of agricultural measures including reports on the achievability of the measures for: confined animal facilities; the erosion control management measure; and pesticide management, nutrient management, grazing management, irrigation management and the

combined impact of a variety of the agricultural management measures.

• Assessment of the achievability of the forestry measures.

• Assessment of the achievability of marinas measures.

• Assessment of the achievability of urban and hydromodification measures and measures for vegetated filter strips and wetlands.

EPA is also requesting comments on three management measures with respect to which EPA is considering significant changes from the proposed measures. EPA is not, however, seeking any additional comment on any of the other management measures and requests that commenters limit comments to the proposed changes.

DATES: Written comments should be addressed to the person listed directly below by July 16, 1992.

ADDRESSES: Comments should be sent to Ann Beier, Assessment and Watershed Protection Division (WH–553), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Copies of any or all of the listed reports are available from the above address. These documents are also available for public inspection and copying during normal business hours at: Public Information Reference Unit, U.S. Environmental Protection Agency, room 2404 (rear), 401 M St. SW., Washington, DC 20460. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services. Copies of these documents are also available for review in the EPA Regional Office libraries.

FOR FURTHER INFORMATION CONTACT: Ann Beier at (202) 260–7085.

SUPPLEMENTARY INFORMATION:

I. Background

Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires EPA to publish (and periodically revise thereafter), in consultation with the National Oceanic and Atmospheric Administration (NOAA), the Fish and Wildlife Service, and other Federal agencies, guidance on management measures for sources of nonpoint pollution in coastal waters. These management measures are to be implemented through state coastal nonpoint pollution control programs. The statute defines management measures as: economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

EPA's proposed management measures guidance, published in June 1991, proposed measures for nonpoint source pollution from the following sources: Agriculture, silviculture, urban (including certain construction activities), marinas, and hydromodification. The proposed guidance also included general measures for vegetated filter strips and wetlands.

The proposed guidance included some information on the costs of the proposed measures but did not assess whether or not the management measures are "economically achievable". EPA requested comments on the economic achievability of the proposed measures and also solicited comments on appropriate analytic methods for EPA to apply in assessing economic achievability.

EPA received some comments noting the lack of an economic achievability analysis in the proposed guidance, but did not receive any specific suggestions on methods to assess achievability.

II. Methodology for Assessing Economic Achievability

A. Introduction

Congress did not define the term "economically achieavable" in the statute; nor did it explain the term in legislative history. However, the legislative history does indicate that the management measures approach of section 6217 is "patterned" after the "best available technology economically achievable" (BAT) approach used in the Clean Water Act for point sources.

In evaluating these management measures for economic achievability, EPA has determined that the term "economically achievable," when used in this context, should not be interpreted precisely in the same manner for the nonpoint source management measures guidance as it has been for point source BAT regulation. Specific features of the CZARA management measures guidance, provided for in the statute, as well as the nature of nonpoint source pollution itself require distinctions in the interpretation of "economically achievable."

First, the legislative history of Section 6217 indicates that state and local governments are to have considerable flexibility in the selection of management measures. Therefore, EPA is developing relatively broad management measures that are each accompanied by a number of specific practices that may be employed to achieve the management measure. EPA expects that the actual measures to be implemented by states will vary, and, because of flexibility CZARA provides for states in developing their coastal nonpoint pollution control programs, not every source will implement every management measure. Third, the nonpoint source management measures apply to a broader range of entities than the industry-specific BAT regulations. Local governments, individual farming operations, and forest managers may all be responsible for implementing management measures. Consequently, the economic achievability analysis must consider a wide variety of affected entities under a host of different scenarios. Statutory time constraints and data limitations necessitate reliance on a more limited approach than the type of exhaustive industry-wide analysis used for BAT regulations.

B. General Methodology

Given the wide variety of communities, industries and individuals potentially affected by the management measures guidance, it was necessary to use a range of methods in assessing the economic achievability of the management measures for the major source categories—agriculture, silviculture, urban (including certain construction activities), marinas, and hydromodification—and for the general measures for vegetated filter strips and wetlands. However, each analysis shares the following features.

First, each analysis identifies the classes of entities potentially affected by the management measures. Second, each analysis attempts to assess the entities' financial situations before the entities bear the cost of implementing the management measure. Third, each analysis is adjusted to reflect only the incremental costs of implementing the management measures. That is, if an entity is already required by existing authorities to implement a nonpoint source control specified by a management measure, there is no cost to the entity attributable to implementing the new management measures. Finally, change in economic well-being for the affected entities is assessed to evaluate the economic achievability of the measures. Changes in economic well being may include decreases in income, decreases in employment, significant increases in costs as a share of municipal budget, restrictions in the ability of a governmental unit to issue a bond, and other similar measures.

The actual test for economic achievability varies for the source

categories. Measures found to be unachievable under these tests will either be modified to ensure that the measure is economically achievable, or, if a less stringent, achievable alternative cannot be identified, will be excluded from the final management measures guidance.

III. Request for Comments on Economic Achievability of the Proposed Management Measures

EPA requests comments on the analysis of the economic achievability of the management measures proposed in the Section 6217(g) guidance. The agency requests additional information on costs associated with implementing the measures, on existing requirements to implement similar measures, and on the methodologies used for assessing achievability. Also, where a commenter believes that a management measure is not economically achievable, commenters are requested to recommend an alternative management measure that would, in the commenter's view, be achievable.

IV. Request for Comments on Selected Aspects of the Proposed Management Measures Guidance

EPA solicits additional public comment on the following three aspects of the proposed management measures guidance:

1. Agricultural Management Measure for Erosion and Sediment Control

EPA's proposed management measure for erosion control was the lesser of T or conservation tillage. EPA has received considerable, though not universal, negative public comment on this proposal. EPA is considering as a possible alternative, and is requesting comment on, an alternative approach that would require the minimization of the delivery of sediment from agricultural lands to receiving waters by either applying the erosion control component of a Conservation Management System (established by the U.S. Department of Agriculture on a farm-by-farm basis), *or* designing and installing a combination of management and physical practices to remove the settleable solids and associated pollutants in runoff delivered from the contributing areas for storms up to and including the 10-year, 24-hour storm.

2. Agricultural Management Measure for Confined Animal Facility Management

EPA's proposed management measure was to store the runoff from storms up to and including a 24-hour, 25-year frequency storm, prevent pollutant movement to ground water, and apply manure and runoff water that is utilized on agricultural land in accordance with the nutrient management measure. EPA's draft economic analysis on this measure indicates that this measure is not economically achievable for smaller facilities. As a result, EPA is considering, and requesting public comment on, an alternative management measure for smaller facilities. Instead of storing all runoff, this alternative management measures would be to minimize the discharge of contaminants in both facility wastewater and in runoff by using practices such as solids separation basins in combination with vegetative practices and practices that eliminate or reduce runoff.

3. Management Measure for Urban Runoff in Developing Areas

EPA is considering, and requesting public comment on, adding to the urban runoff chapter and to the marinas chapter a management measure to prevent, attenuate and treat runoff from new development sites so that the equivalent of at least 80 percent of the average annual total suspended solids (TSS) loading is removed. The basis for considering this additional measure are:

a. Several coastal States and sub-State jurisdictions (e.g., Delaware, Florida, and the Lower Colorado River Authority in Texas) already require this measure and have found it to be achievable.

b. Several practices have been demonstrated to be capable of achieving 80 percent or better removal of TSS, including wet ponds, infiltration ponds, constructed stormwater wetlands, and sand filters, as well as combinations of these and other practices.

Under EPA's proposal, actual monitoring of TSS removal rates would not be required, so long as practices are appropriately designed to meet the 80% TSS removal performance expectation.

Dated: June 8, 1992.

LaJuana S. Wilcher,

Assistant Administrator for Water.

[FR Doc. 92-14095 Filed 6-15-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public

Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Starlite Cruises (Florida), Inc. and Starlite Cruises, Inc., 1007 North American Way, Miami, Florida 33132, Vessel: TROPIC STAR II.

Dated: June 10, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-14053 Filed 6-15-92; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR, part 540, as amended: Starlite Cruises (Florida), Inc., Starlite Cruises, Inc., and Stena America Line, Inc., 1007 North American Way, Miami, Florida 33132, Vessel: TROPIC STAR II.

Dated: June 10, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-14054 Filed 6-15-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Charles R. Shipley, Jr. and Lucia H. Shipley, Rohm and Haas Company, Rohm and Haas Company	92-0953	05/26/92
Rohm and Haas Company, Charles R. Shipley, Jr. and Lucia H. Shipley, Shipley Company Inc.	92-0954	05/26/92
The 1818 Fund, L.P. LDDS Communications, Inc., LDDS Communications, Inc.	92-0955	05/26/92
The Future Now, Inc., Intelligent Electronics, Inc., Monterey-Waldec, Inc.	92-0989	05/26/92
Intelligent Electronics, Inc., The Future Now, Inc., The Future Now, Inc.	92-0990	05/26/92
Siemens Aktiengesellschaft, International Business Machines Corporation, ROLM Company	92-0956	05/27/92
Siemens Aktiengesellschaft, Siemens Aktiengesellschaft, ROLM Company	92-0964	05/27/92
The Morgan Stanley Leveraged Equity Fund II, L.P., BASF AG, BASF AG	92-0999	05/27/92
The Rouse Company, Metropolitan Life Insurance Company, Echelon Mall Joint Venture	92-1011	05/27/92
Standard Commercial Corporation, W.A. Adams Company, Inc., W.A. Adams Company, Inc.	92-0969	05/28/92
Selective Insurance Group, Inc., Niagara Exchange Corporation, Niagara Exchange Corporation	92-0895	05/29/82
Aurora Health Care, Inc., Sheboygan Memorial Hospital, Inc., Sheboygan Memorial Hospital, Inc.	92-0937	05/29/92
Computer Associates International, Inc., Barry G. Rebell Nantucket Corporation	92-0962	05/29/92
The Elder-Beerman Stores Corp., H.C. Prange Company, H.C. Prange Company	92-0979	05/29/92
Edwards Dunlop and Company Limited, The Meade Corporation Seaboard Paper Company	87-1488	05/30/98
The Atlantic Foundation, LEGENT Corporation, LEGENT Corporation	92-0917	06/01/92
Aoki Corporation, The Equitable Life Assurance Society of the U.S., The Equitable Life Assurance Society of the U.S.	92-0991	06/01/92
HMC/Neodata, L.P., Wiland Services, Inc., Wiland Services, Inc.	92-1004	06/01/92
Northern States Power Company, National Westminster Bank Plc., National Westminster Bank Plc.	92-1005	06/01/92
Willy R. Strothotte, Willy R. Strothotte, Ravenswood Aluminum Corporation	92-1017	06/01/92
Nucorp, Inc., Surewest Financial Corp., Surewest Financial Corp.	92-1019	06/01/92
ComputerLand Corporation, TRW, Inc., TRW, Inc.	92-1020	06/01/92
Societe BIC S.A., Wite-Out Products, Inc., Wite-Out Products, Inc.	92-1021	06/01/92
Thermo Electron Corporation, United Technologies Corporation, FES, Inc.	92-1022	06/01/92
Merry-Go-Round Enterprises, Inc., Reitmans (Canada) Limited, Worths Stores Corp.	92-1038	06/01/92
Estate of Dr. Albert Reimann, Pfizer Inc., Pfizer Inc.	92-0932	06/03/92
Corporate Offshore Partners, L.P., Continental Cablevision, Inc., Continental Cablevision, Inc.	92-0939	06/03/92
Corporate Partners, L.P., Continental Cablevision, Inc., Continental Cablevision, Inc.	92-0940	06/03/92
Corporate Offshore Partners, L.P., Continental Cablevision, Inc., Continental Cablevision, Inc.	92-0942	06/03/92
Corporate Partners, L.P., Continental Cablevision, Inc., Continental Cablevision, Inc.	92-0943	06/03/92
Media/Communication Partners Limited Partnership, George D. Lilly, SJL of Michigan Corp.	92-0971	06/03/92
General Electric Company, First Interstate Bancorp., First Interstate Bank of California	92-1032	06/03/92
Archer-Daniels-Midland Company, Lonnie A. Pilgrim, Pilgrim's Pride Corporation	92-1036	06/03/92
Beneficial Corporation, Green Capital Investors, L.P., Rhodes, Inc. and Rhodes Financial Services Corp.	92-1016	06/04/92
First Financial Management Corporation, BankAmerica Corporation, Summit Information Systems Corporation	92-1035	06/04/92
The Southern Company, Rosenberg Real Estate Equity Fund-III, Granada Village and Ygnacio Plaza Shopping Centers	92-1030	06/05/92
Karl Eller, Gannett Co., Inc., Gannett Outdoor Co. of Arizona	92-1045	06/05/92
General Dynamics Corporation, Aker A.S. (incorporated in Norway), Continental Cement Company	92-1046	06/05/92
General Dynamics Corporation, Euroc AB (incorporated in Sweden), Continental Cement Company	92-1047	06/05/92
The Prudential Insurance Company of America, Sylvan S. Shulman, The Plaza at West Covina	92-1049	06/05/92
The Prudential Insurance Company of America, Linda Schrobilgen, The Plaza at West Covina	92-1050	06/05/92
The Prudential Insurance Company of America, Michael Shulman, The Plaza at West Covina	92-1051	06/05/92
John W. Stanton, Cellular Information Systems Inc., C.I.S. of Billings, Inc.	92-1053	06/05/92
Toufic Aboukhater, The Henley Group, Inc., Abex Inc.	92-1070	06/05/92

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay or Renee A. Horton, Contact Representatives
Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, D.C. 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-14086 Filed 6-15-92; 8:45 am]

BILLING CODE 6750-01-M

[File No. 902 3231]

NME Hospitals, Inc., d/b/a Continent Ostomy Center; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the California-based hospital chain from misrepresenting the comparative efficacy, permanence, or likely complications of any reconstructive surgical procedure, and would require that the respondent base future claims about the efficacy, permanence, or likely complications of any surgical procedure used in the treatment of bowel-related diseases on competent and reliable scientific evidence that substantiates any such representation.

DATES: Comments must be received on or before August 17, 1992.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:
Michael Katz, FTC/H-200, Washington, DC 20580. (202) 326-3123.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited.

Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

The Federal Trade Commission having initiated an investigation of certain acts and practices of NME Hospitals, Inc., d/b/a Continent Ostomy Center ("NME Hospitals"), a corporation, and it now appearing that NME Hospitals, sometimes referred to as proposed respondent or respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed By and between NME Hospitals, by its duly authorized officer, and its counsel, and counsel for the Federal Trade Commission that:

1. Proposed respondent NME Hospitals is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 2700 Colorado Avenue, Santa Monica, California 90404.

2. Proposed respondent admits all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondent waives: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft complaint, or that the facts alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (a) Issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding; and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the attached draft complaint and the following order. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports to monitor respondent's compliance with this agreement and order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

For purposes of this Order, the following definition shall apply:

"Competent and reliable scientific evidence" shall mean tests, analysis, research, studies or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted by others in the profession or science to yield accurate and reliable results.

I.

It is ordered That respondent NME Hospitals, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale or sale of services relating to the treatment of ulcerative colitis and other bowel-related diseases, do forthwith cease and desist from:

A. Representing in any manner, directly or by implication, that respondent's surgical procedure—the Barnett ileostomy—for the treatment of ulcerative colitis and other bowel-related diseases is superior to other surgical procedures used as alternatives to a conventional ileostomy, unless such is the case, or otherwise misrepresenting the efficacy of the Barnett ileostomy as compared to any other surgical procedure used in the treatment of bowel-related diseases.

B. Misrepresenting in any manner, directly or by implication, that patients who had received a Barnett ileostomy have not experienced slippage or leakage problems, or otherwise misrepresenting complications following the Barnett ileostomy procedure, or any other surgical procedure used in the treatment of bowel-related diseases.

C. Representing in any manner, directly or by implication, that there is over a 50 percent chance that patients who receive an ileoanal anastomosis will need corrective surgery, or otherwise misrepresenting the need for corrective surgery for any procedure used in the treatment of bowel-related diseases.

D. Misrepresenting in any manner, directly or by implication, that respondent's clinical experience shows that the incidence of valve slippage and reoperation for the Barnett ileostomy is substantially less than that for the surgical procedure commonly referred to as the "Kock procedure," or otherwise misrepresenting its clinical experience with complications following any other surgical procedure used in the treatment of bowel-related diseases.

E. Making any representation, directly or by implication, about the efficacy, permanence, or likely complications of any surgical procedure used in the treatment of bowel-related diseases unless, at the time of making any such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates any such representation.

II.

It is ordered That respondent NME Hospitals, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection

with the advertising, promotion, offering for sale or sale of services relating to "reconstructive surgery," cease and desist from misrepresenting, directly or by implication, the efficacy, permanence, or likely complications of any of respondent's "reconstructive surgical procedures" as compared to the efficacy, permanence, or likely complications of any other surgical procedure. For purposes of this Order provision, "reconstructive surgery" or "reconstructive surgical procedures" are those surgical procedures listed on Attachment A which is appended to this Order.

III.

It is further ordered That respondent shall maintain for a period of five (5) years after the date the representation was last made, and make available to the Federal Trade Commission upon request for inspection and copying, all materials possessed and relied upon to substantiate any representation covered by this Order, and all test reports, studies, or information in their possession or control that contradict, qualify or call into question any such representation.

IV.

It is further ordered That, for a period of five years after the date of entry of this order, respondent shall notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in respondent which may affect compliance obligations arising out of this order.

V.

It is further ordered That respondent NME Hospitals, Inc., a corporation, and its successors or assigns, shall forthwith distribute a copy of this Order to each of its officers, agents, representatives, independent contractors and employees who are engaged in the preparation and placement of advertisements or promotional materials, who communicate with patients or prospective patients, or who have any responsibilities with respect to the subject matter of this Order; and, for a period of five (5) years from the date of entry of this Order distribute same to all of respondent's future officers, agents, representatives, independent contractors and employees having said responsibilities.

It is further ordered That respondent shall, within (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with all requirements of this Order.

Attachment A—

RECONSTRUCTIVE SURGICAL PROCEDURES

ICD-CM Procedure codes	Procedure
	Nervous system
0204	Bone graft to skull.
0205	Insert of skull plate.
0212	Repair of cerebral meninges (includes graft).
022	Ventriculostomy (includes valve/shunt insertion).
0231	Ventricular shunt to structure in head and neck.
0232	Ventricular shunt to circulatory system.
0233	Ventricular shunt to thoracic cavity.
0234	Ventricular shunt to abdominal cavity and organs.
0235	Ventricular shunt to urinary system.
0239	Operation to Establish drainage of ventricle.
0242	Replacement of ventricular shunt.
0293	Implantation of intracranial neurostimulator.
0294	Insertion/replacement of skull tongs/halo traction device.
0371	Spinal subarachnoid-peritoneal shunt.
0372	Spinal subarachnoid-ureteral shunt.
0379	Shunt of spinal theca.
0390	Insertion of catheter into spinal canal for infusion of therapeutic/palliative substances.
0393	Insertion or replacement of spinal neurostimulator.
0395	Spinal blood patch.
045	Cranial/peripheral nerve graft.
0492	Implantation/replacement of peripheral neurostimulator.
	Endocrine system
0694	Thyroid tissue reimplanation.
0695	Parathyroid tissue reimplantation.
0745	Reimplantation of Adenal tissue.
0794	Transplantation of thymus.
	Eye
0861	Reconstruction of eyelid with skin flap graft.
00862	Reconstruction of eyelid with mucous membrane flap/graft.
0863	Reconstruction of eyelid with hair follicle graft.
0869	Reconstruction of eyelid with flap/graft.
0944	Intubation of nasolacrimal duct.
0983	Conjunctivorhinostomy with insertion of tube/stent.
1041	Repair of symblepharon with free graft.
1042	Reconstruction of conjunctival cul-de-sac with free graft.
1044	Free graft to conjunctiva.
	Eye
1132	Excision of pteryglum with corneal graft.
1153	Repair of corneal laceration/wound with conjunctival flap.
1160	Corneal transplant, not otherwise specified.
1162	Lamellar keratoplasty.
1164	Penetrating keratoplasty.
1169	Corneal transplant.
1172	Keratophakia.
1173	Keratoprosthesis.
1176	Epikeratophakia.
1285	Repair of scleral staphyloma with graft.
1287	Scleral reinforcement with graft.

RECONSTRUCTIVE SURGICAL PROCEDURES—Continued

ICD-CM Procedure codes	Procedure
1292	Injection into anterior chamber.
1371	Insertion of intraocular lens prosthesis at time of cataract extraction (one-stage).
1370	Insertion of pseudophakos, unspecified.
1372	Secondary insertion of intraocluar lens prosthesis.
1441	Scleral buckling with implant.
1449	Scleral buckling (with virtrectomy).
1475	Injection of vitreous substitute.
1631	Removal of ocular contents with synchronous implant.
1641	Eyeball enucleation with synchronous implant into tenon's capsule; attachment of muscles.
1642	Eyeball enucleation with synchronous implant.
1661	Secondary insertion of ocular implant.
1662	Revision & reinsertion of ocular implant.
1663	Revision of enculeation socket with graft.
1665	Secondary graft to exenteration cavity.
	Ear
186	Reconstruction of external auditory canal.
1871	Construction of auricle of ear.
1911	Stapedectomy with incus replacement.
1921	Revision of stapedectomy with incus replacement.
1952	Type II tympanoplasty.
1953	Type III tympanoplasty.
1954	Type IV tympanoplasty.
1955	Type V tympanoplasty.
2001	Myringotomy with insertion of tube.
2061	Fenestration of inner ear (initial).
2071	Endolymphatic shunt.
208	Operations on eustachian tube (includes insertion of catheter or tube).
2095	Implantation of electromagnetic hearing device.
2096	Implantation of cochlear prosthetic device, not otherwise specified.
2097	Implantation or replacement of cochlear prosthetic device, single channel.
2098	Implantation or replacement of cochlear prosthetic device, multiple channel.
	Nose, mouth, pharynx
2107	Control of epistaxis by excision of nasal mucosa & skin graft of septum/lateral nasal wall.
2185	Augmentation rhinoplasty.
242	Gingivoplasty.
245	Alveoloplasty.
247	Application of orthodontic appliance.
2755	Full-thickness skin graft to lip & mouth.
2756	Skin graft to lip & mouth.
	Respiratory system
3175	Reconstruction of trachea & construction of artificial larynx.
3193	Replacement of laryngeal/tracheal stent.
3485	Implantation of diaphragmatic pacemaker.
	Cardiovascular
3520	Replacement of unspecified heart valve.
3521	Replacement of aortic valve with tissue graft.
3522	Replacement of aortic valve.
3523	Replacement of mitral valve with tissue graft.
3524	Replacement of mitral valve.
3525	Replacement of pulmonary valve with tissue graft.
3526	Replacement of pulmonary valve.
3527	Replacement of tricuspid valve with tissue graft.

RECONSTRUCTIVE SURGICAL PROCEDURES—Continued

ICD-CM Procedure codes	Procedure
3528	Replacement of tricuspid valve.
3550	Repair of unspecified septal defect of heart with prosthesis.
3551	Repair of atrial septal defect with prosthesis, open technique.
3552	Repair of atrial septal defect with prosthesis, closed technique.
3553	Repair of ventricular septal defect with prosthesis.
3554	Repair of endocardial cushion defect with prosthesis.
3560	Repair of unspecified septal defect of heart with tissue graft.
3561	Repair of atrial septal defect with tissue graft.
3562	Repair of ventricular septal defect with tissue graft.
3563	Repair of endocardial cushion defect with tissue graft.
3595	Revision of corrective procedure on heart (includes replacement of heart valve).
3603	Open chest coronary angioplasty (with patch graft).
3610	Aortocoronary bypass for heart revascularization, not otherwise specified.
3611	Aortocoronary bypass of one coronary artery.
3612	Aortocoronary bypass of two coronary arteries.
3613	Aortocoronary bypass three coronary arteries.
3614	Aortocoronary bypass of four or more coronary arteries.
3615	Single internal mammary-coronary artery bypass.
3616	Double internal mammary-coronary artery bypass.
3619	Other bypass anastomosis for heart revascularization.
362	Heart revascularization by arterial implant.
375	Heart transplantion.
3761	Implant of pulsation balloon.
3762	Implant of heart assist system.
3763	Replacement and repair of heart assist system.
3770	Initial insertion of pacemaker lead (electrode), unspecified.
3771	Initial insertion of travsvenous lead (electrode) into ventricle.
3772	Initial insertion of transvenous leads (electrodes) into atrium and ventricle.
3773	Initial insertion of transvenous lead (electrode) into atrium.
3774	Insertion of replacement of epicardial lead (electrode) into epicardium.
3776	Insertion of transvenous atrial/ventricular lead(s) (electrode).
3778	Insertion of temporary transvenous pacemaker system.
3780	Insertion of permanent pacemaker, initial or replacement type of device unspecified.
3781	Initial insertion of single-chamber device, not specified as rate responsive (to physiologic stimuli).
3782	Initial insertion of single-chamber device, rate responsive.
3783	Initial insertion of dual-chamber device.
3785	Replacement of any type of pacemaker device with single-chamber device, not specified as rate responsive.
3786	Replacement of any type of pacemaker device with single-chamber device, rate responsive.
3787	Replacement of any type of pacemaker device with dual-chamber device.
3794	Implantation/replacement of automatic cardioverter/defibrillator, total system (AICD).
3795	Impantation of automatic cardioverter/defibrillator lead(s) only.
3796	Impantation of automatic cardioverter/defibrillator pulse generator only.
3797	Replacement of automatic cardioverter/defibrillator lead(s) only.
3798	Replacement of auttomatic cardioverter/defibrillator pulse generator only.
3840	Resection of vessel with replacement, unspecified site.
3841	Resection of vessel with replacement, intracranial vessel.
3842	Resection of vessel with replacement, vessel of head & neck.
3843	Resection of vessel with replacement, upper limb vessel.
3844	Resection of vessel with replacement, abdominal aorta.
3845	Resection of vessel with replacement, thoracic vessel (AORTA).
3846	Resection of vessel with replacement, abdominal artery.
3847	Resection of vessel with replacement, abdominal vein.
3848	Resection of vessel with replacement, lower limb artery.
3849	Resection of vessel with replacement, lower limb vein.
387	Interruption of the vena cava (includes with implant or sieve).
3895	Venous catheterization for renal dialysis.
3956	Repair of blood vessel with tissue patch graft.
3957	Repair of blood vessel with synthetic patch graft.
3958	Repair of blood vessel with unspecified type of patch graft.
3964	Intraoperative cardiac pacemaker.
398	Operations of carotid body and other vascular bodies.
3993	Insertion of vessel-to-vessel cannula.
	hemic/lympahatic system
4061	Cannulation of thoracic duct.
4100	Bone marrow transplant, not otherwise specified.
4101	Allologous bone marrow transplant.
4102	Allogenic bone marrow transplant with purging.
4103	Allogenic bone marrow transplant without purging.
4194	Transplantation of spleen.
	Digestive system (3)
4281	Insertion—permanent tube into esophagus.
4287	Graft of esophagus.
4311	Percutaneous (Endoscopic) gastrostomy (PEG).
4493	Insertion of gastric bubble (balloon).
4622	Continent ileostomy.
4632	Percutaneous (endosopic) jejunostomy (PEJ).
4610	Colostomy, unspecified.
4612	Permanent magnetic colostomy.
4613	Permanent colostomy.
4620	Ileostomy, unspecfied.
4621	Temporary Ileostomy.
4992	Insertion of subcutaneous electrical anal stimulator.
5059	Liver transplant.
5143	Insertion of Choledochoheptatic tube for decompression.
5186	Endosopic insertion of nasobiliary drainage tube.
5187	Endoscopic insertion of stent (tube) into bile duct.
5280	Pancreatic transplant, unspecified.
5281	Reimplantation of pancreatic tissue.
5282	Homotransplant of pancreas.
5283	Heterotransplant of pancreas.
5292	Cannulation fo pancreatic duct.
5297	Endoscopic insertion of nasopancreatic drainage tube.
5303	Unilateral repair of direct inguinal hernia with graft/prosthesis.
5304	Unilateral repair of indirect inguinal hernia with graft/prosthesis.
5305	Unilateral repair of inguinal hernia with graft/prosthesis, unspecified.
5314	Bilateral repair of direct inguinal hernia with graft/prosthesis.
5315	Bilateral repair of indirect inguinal hernia with graft/prosthesis.
5316	Bilateral repair of inguinal, hernia direct & indirect, with graft/prosthesis.
5317	Bilateral repair of inguinal hernia, with graft/prosthesis specified.
5321	Unilateral repair of femoral hernia with graft/prosthesis.
5331	Bilateral repair of femoral hernia with graft/prosthesis.
5341	Repair of umbilical hernia with prosthesis.
5361	incisional hernia with prosthesis.
569	Repair of hernia of anterior abdominal wall with graft/prosthesis.
	Urinary system
5561	Renal autotransplantation.
5569	Kidney transplantation.
5597	Implantation/replacement of mechanical kidney.
5692	Implantation of electronic ureteral stimulator.
5693	Replacement of electronic ureteral stimulator.
5794	Insertion of indwelling urinary catheter.
5795	Replacement of indwelling urinary catheter.
5796	Implantation of electronic bladder stimulator.
5797	Replacement of electronic bladder stimulator.
5893	Replacement of artificial urinary sphincter (AUS).
598	Ureteral catheterization.
5993	Replacement of ureterostomy tube.
5994	Replacement of cystostomy tube.
	Male genital organs
627	Insertion of testicular prosthesis.
6395	Insertion of valve in vas deferens.
6443	Construction of penis.
6494	Fitting of external prosthesis of penis.
6495	Insertion or replacement of internal non-inflatable prosthesis of penis.
6497	Insertion or replacement of internal inflatable prosthesis of penis.
	Female genital organs
6693	Implantation/replacement of prosthesis of fallopian tube.
697	Insertion of intrauterine contraceptive device.
6991	Insertion of therapeutic device into uterus.
6992	Artificial insemination (includes invitro fertilization).

RECONSTRUCTIVE SURGICAL PROCEDURES—Continued

ICD-CM Procedure codes	Procedure
	Musculoskletal
7691	Bone graft to fiscal bone
7692	Insertion synthetic implant in facial bone.
7800	Bone graft to unspecified bone.
7801	Bone graft to to scapula/clavicle/thorax (ribs/sternum).
7802	Bone graft to humerus.
7803	Bone graft to radius/ULNA.
7804	Bone graft to carpals/metacarpals.
7805	Bone graft to femur.
7806	Bone graft to patella.
7807	Bone graft to tibia/fibula.
7808	Bone graft to tarsals/metatarsals.
7809	Bone graft to specified bone, except facial bone.
7810	Application of external fixation device, unspecified bone.
7811	Application of external fixation device, device, scapula/clavicle/thorax (ribs/sternum).
7812	Application of external fixation device, humerus.
7813	Application of external fixation device, radius/ulna.
7814	Application of external fixation device, carpals/metacarpals.
7815	Application of external fixation device, femur.
7816	Application of external fixation device, patella.
7817	Application of external fixation device, tibia/fibula.
7818	Application of external fixation device, tarsals/metatarsals.
7819	Application of external fixation device.
7830	Limb lengthening, unspecified bone.
7832	Limb lengthening, humerus.
7833	Limb lengthening, radius/ULNA.
7834	Limb lengthening, carpals/metacarpals.
7835	Limb lengthening, femur.
7837	Limb lengthening, tibia/fibula.
7838	Limb lengthening, tarsals/metatarsals.
7839	Limb lengthening.
7850	Internal fixation of bone without fracture reduction, unspecified site.
7851	Internal fixation of bone without fracture reduction, scapula/clavicle/thorax (ribs/sternum).
7852	Internal fixation of bone without fracture reduction, humerus.
7853	Internal fixation of bone without fracture reduction, radius/ULNA.
7854	Internal fixation of bone without fracture reduction, carpals/metacarpals.
7855	Internal fixation of bone without fracture reduction, femur.
7856	Internal fixation of bone without fracture reduction, Patella.
7857	Internal fixation of bone without fracture reduction, tibia/fibula.
7858	Internal fixation of bone without fracture reduction, tarsals/metatarsals.
7859	Internal fixation of bone without fracture reduction, specified bone, except facial bone.
7890	Insertion of bone growth stimulator into unspecified bone.
78991	Insertion of bone growth stimulator into scapula/clavicle/thorax (ribs/sternum).
7892	Insertion of bone growth stimulator into humerus
7893	Insertion of bone growth stimulator into radius/ULNA.
7894	Insertion of bone growth stimulator into carpals/metacarpals.
7895	Insertion of bone growth stimulator into femur.
7896	Insertion of bone growth stimulator into patella.
7897	Insertion of bone growth stimulator into tibia/fibula.
7898	Insertion of bone growth stimulator into transals/matatarsals.
7899	Insertion of bone growth stimulator into specified bone, except facial bone.
7910	Closed reduction of fracture with internal fixation of unspecified site.
7911	Closed reduction of fracture with internal fixation of humerus
7912	Closed reduction of fracture with internal fixation of or radius/ULNA
7913	Closed reduction of fracture with internal fixation of carpals/metacarpals.
7914	Closed reduction of fracture with internal fixation of phalanges of hand.
7915	Closed reduction of fracture with internal fixation of femur.
7916	Closed reduction of fracture with internal fixation of tibia/fibula.
7917	Closed reduction of fracture with internal fixation of tarsals/metatarsals.
7918	Closed reduction of fracture with internal fixation of phalanges of foot.
7919	Closed reduction of fracture with internal fixation of specified bone.
7930	Open reduction of fracture with internal fixation of unspecified site.
7931	Open reduction of fracture with internal fixation of humerus.
7932	Open reduction of fracture with internal fixation of radius/ULNA.
7934	Open reduction of fracture with internal fixation of phalanges of hand.
7935	Open reduction of fracture with internal fixation of femur.
7936	Open reduction of fracture with internal fixation of tibia/fibula.
7937	Open reduction of fracture with internal fixation of tarsals/metatarsals.
7938	Open reduction of fracture with internal fixation of phalanges of foot.
7939	Open reduction of fracture with internal fixation of specified bone.
8100	Spinal fusion, unspecified.
8101	Atlas-axis spinal fusion.
8102	Cervical fusion, anterior technique.
8103	Cervical fusion, Posterior technique.
8104	Dorsal/dorsolumbar fusion, anterior technique.
8105	Dorsal/dorsolumbar fusion, Posterior technique.
8106	Lumbar/lumbosacral fusion, anterior technique.
8107	Lumbar/lumbosacral fusion, lateral transverse process technique.
8108	Lumbar/lumbosacral fusion, posterior technique.
8109	Refusion of spine, any level or technique.
8111	Ankle fusion.
8112	Triple arthrodesis.
8113	Subtalar fusion.
8114	Midtarsal fusion.
8115	Tasometatarsal fusion.
8116	Metatarsophalangeal fusion.
8117	Fusion of foot.
8120	Athrodesis of unspecified joint.
8121	Arthrodesis of hip.
8122	Arthrodesis of knee.
8123	Arthrodesis of shoulder.
8124	Arthrodesis of elbow.
8125	Carporadial fusion.
8126	Metacarpocarpal fusion.
8127	Metacarpophalangeal fusion.
8128	Interphalangeal fusion.
8129	Arthrodesis of specified joint.
8151	Total hip replacement.
8152	Partial hip replacement.
8154	Total knee replacement.
8156	Total ankle replacement.
8157	Replacement of joint of foot & toe.
8171	Arthroplasty of metacarpophalangeal & interphalangeal joint with implant.
8173	Total wrist replacement.
8174	Arthroplasty of carpocarpal or carpometacarpal joint with implant.
8180	Total shoulder replacement.
8181	Partial shoulder replacement.
8184	Total elbow replacement.
8261	Surgical construction of thumb from portion of index finger.
8269	Reconstruction of thumb.
8272	Plastic operation on hand with graft of muscle or fascia.
8279	Plastic operation on hand with graft or implant.
8375	Tendon transfer/transplant.
8377	Muscle transfer/transplant.
8381	Tendon graft.
8382	Muscle/fascia graft.
8392	Insertion/replacement of skeletal muscle stimulator.
8440	Implantation/fitting of prosthetic limb device, unspecified.
8441	Fitting of prosthesis of upper arm & shoulder.
8442	Fitting of prosthesis of lower arm & hand.
8443	Fitting of prosthesis of arm, unspecified.
8444	Implantation of prosthetic device of arm.
8445	Fitting of prosthesis above knee.
8446	Fitting of prosthesis below knee.
8447	Fitting of prosthesis of leg, unspecified.
8448	Implantation of prosthetic device of leg.
	Skin
8533	Unilateral subcutaneous mammectomy with synchronous implant.
8535	Unilateral subcutaneous mammectomy with synchronous implant.
8550	Augmentation mammoplasty, unspecified.
8551	Unilateral injection into breast for augmentation.
8552	Bilateral injection into breast for augmentation.
8553	Unilateral breast implant (for Augmentation).
8554	Bilateral breast implant (for Augmentation).
857	Total reconstruction of breast.
8582	Split-thickness graft to breast.
8583	Full-thickness graft to breast.
8584	Pedicle graft to breast.
8585	Muscle flap graft to breast.
8595	Insertion of breast tissue expander.
8606	Insertion of totally implantable infusion pump.
8607	Insertion of totally implantable vascular access device (VAD).
8660	Free skin graft, unspecified.
8661	Full-thickness skin graft to hand.
8662	Skin graft to hand.
8663	Full-thickness skin graft.
8664	Hair transplant.
8665	Heterograft to skin.
8666	Homograft to skin.
8669	Skin graft.

RECONSTRUCTIVE SURGICAL PROCEDURES—Continued

ICD–CM Procedure codes	Procedure
8670	Pedicle flap/graft, unspecified.
8671	Cutting & preparation of pedicle flap/graft.
8672	Advancement of pedicle graft.
8673	Attachment of pedicle flap/graft to hand.
8674	Attachment of pedicle flap/graft.
8693	Insertion of tissue expander.

[1] Excludes dental procedures.
[2] Does not include specialized pediatric cardiovascular procedures (not performed at any hospital owned by NME Hospitals, Inc.)
[3] Excludes bilroths, by passes, and anastomoses.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from NME Hospitals, Inc. of Santa Monica, California. NME Hospitals, through its Continent Ostomy Centers, offers surgical services for the treatment of ulcerative colitis and other bowel-related diseases.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission has alleged that the proposed respondent has misrepresented its past success in the treatment of ulcerative colitis and the comparative superiority of its procedure to other surgical procedures used in the treatment of this disease.[1] The Commission further has alleged that the proposed respondent failed to have a reasonable basis for the representations made. The allegations do not concern the competence of individual surgeons performing the continent ostomy procedure offered by NME Hospitals, Inc.

In particular, NME Hospitals, Inc. claimed that:

1. Its surgical procedure for the treatment of ulcerative colitis and other bowel-related diseases is superior to other surgical procedures used as alternatives to a conventional ileostomy.

2. Patients who have had respondent's surgical procedure have not experienced slippage or leakage problems.

3. Patients who have received an ileoanal anastomosis have more than a 50 percent chance of needing corrective surgery.

4. Its clinical experience shows that the incidence of valve slippage and reoperation for its procedure is substantially less than that for the Kock procedure.

The Commission alleges that these claims were deceptive because:

1. Proposed respondent's surgical procedure is not superior to other surgical procedures used as alternatives to a conventional ileostomy.

2. Some of proposed respondent's patients have experienced slippage and leakage problems.

3. There is significantly less than a 50 percent chance that patients who have received an ileoanal anastomosis will need corrective surgery.

4. Proposed respondent's clinical experience does not show that the incidence of valve slippage and reoperation for its continent ileostomy procedure is substantially less than that for the Kock procedure.

The Commission further alleges that these claims were deceptive because, at the time NME Hospitals made the representations, it lacked a reasonable basis to support the claims.

Part I of the proposed consent order seeks to address the alleged misrepresentations cited in the complaint. It prohibits the "no slippage or leakage" claim (I.B.) and the "50 percent chance that patients who receive an ileoanal anastomosis will need corrective surgery" claim (I.C). Further, the proposed order prohibits misrepresentations relating to the "superiority" of proposed respondent's procedure as compared to other surgical procedures used as alternatives to a conventional ileostomy (I.A), and specifically, to the Kock procedure (I.D). Finally, Part I.E requires that NME Hospitals, Inc. base future claims about the efficacy, permanence, or likely complications of any surgical procedure used in the treatment of ulcerative colitis on competent and reliable scientific evidence that substantiates any such representation.

Part II of the proposed consent order provides a fencing-in provision with regard to future comparative claims. Part II prohibits misrepresentations as to the comparative efficacy, permanence, or likely complications of numerous surgical procedures delineated on a 12-page list attached to the proposed order. The list includes surgical procedures performed by NME Hospitals that fall within the same generic type of surgery as that performed in proposed respondent's continent ileostomy procedure.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,
Secretary.

[FR Doc. 92–14087 Filed 6–15–92; 8:45 am]
BILLING CODE 6750–01–M

[1] There are three basic surgical procedures used in the treatment of ulcerative colitis and other bowel-related diseases. Medical literature indicates that for many years beginning in the 1940s, the conventional surgical treatment for ulcerative colitis was a total proctocolectomy with a "Brooke ileostomy." That is, the removal of the colon, rectum and anus and replacement by an incontinent reservoir that empties fecal matter into an external pouch. In the late 1960s, the continent ileostomy was developed by Dr. Nils Kock of Norway as an alternative operative procedure to the Brooke ileostomy. The continent ostomy procedure, which also involves the removal of the colon, rectum and anus, provides for an internal pouch that acts as a reservoir for the collection of fecal matter. Continence is maintained by a nipple valve until the patient initiates waste removal by means of a catheter. In the early 1980s, a third surgical technique was developed that allowed for a more normal route of defecation: The ileoanal anastomosis. That procedure provides for the uniting of the ileum to the anal canal with construction of a proximal pouch, thus preserving the anal sphincter and anus. This procedure preserves the normal route of defecation.

[Docket No. C-3383]

Slender You, Inc. et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Tennessee company and its officers from making false and misleading representations regarding the weight loss and physical fitness benefits of any exercise machines or devices and diet or fitness programs, and would require the respondents to have competent and reliable scientific evidence to substantiate such claims at the time they are disseminated.

DATES: Complaint and Order issued May 22, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Thomas Jefferson or Theresa McGrew, Chicago Regional Office, Federal Trade

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

Commission, 55 East Monroe St., suite 1437, Chicago, IL. 60603. (312) 353–7178.

SUPPLEMENTARY INFORMATION: On Tuesday, November 26, 1991, there was published in the **Federal Register**, 56 FR 59946, a proposed consent agreement with analysis In the Matter of Slender You, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 92–14085 Filed 6–15–92; 8:45 am]

BILLING CODE 6750–01–M

[File No. 902 3025]

The Winning Combination, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a California corporation and its officer from misrepresenting the efficacy of Essential Factors with Oxy-Energizer, a food supplement, or any similar product; from making certain representations unless they possess competent and reliable scientific evidence to substantiate the representations; and from representing that any such product has been accepted by the U.S. Government as effective for relieving fatigue or providing extra energy.

DATES: Comments must be received on or before August 17, 1992.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Milgrom, Cleveland Regional Office, Federal Trade Commission, 668 Euclid Ave., suite 520–A, Cleveland, OH. 44114. (216) 522–4210.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of The Winning Combination, Inc., a corporation, and Andrew Lessman, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts or practices being investigated,

It is hereby agreed by and between proposed respondents and their attorney and counsel for the Federal Trade Commission that:

1. Proposed respondent The Winning Combination, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office or principal place of business located at 1661 19th Street, Santa Monica, California 90404.

Proposed respondent Andrew Lessman is an officer of the corporate respondent named herein. He formulates, directs and controls the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft Complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's Decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft Complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint, or that the facts alleged in the attached draft complaint other than the jurisdictional facts, are true.

6. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this Agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint attached hereto may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered, That respondents The Winning Combination, Inc., a corporation, and Andrew Lessman, individually and as an officer of said corporation, their successors and assigns, and their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the food supplement Essential Factors with Oxy-Energizer, or any other product of similar composition, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication:

(A) That consumption of such product has been scientifically proven to prevent fatigue and tiredness;

(B) That consumption of such product has been scientifically proven to provide energy, stamina or endurance beyond its coloric value; and

(C) That such product has been accepted by the United States Government, or any agency or division thereof, as effective for relieving fatigue or providing extra energy.

II

It is further ordered, That respondents, The Winning Combination, Inc., a corporation, and Andrew Lessman, individually and as an officer of said corporation, their successors and assigns, and their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the food supplement Essential Factors with Oxy-Energizer, or any other health-related service or product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the existence, contents, validity, results, conclusions or interpretations of any test or study.

III

It is further ordered, That respondents The Winning Combination, Inc., a corporation, and Andrew Lessman, individually and as an officer of said corporation, their successors and assigns, and their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

(A) Consumption of such product prevents fatigue and tiredness; or

(B) Consumption of such product provides energy beyond its caloric value;

unless, at the time such representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. For purpose of the order, for any test, analysis, research, study or other evidence to be "competent and reliable," the test, analysis, research, study, or other evidence shall be conducted and evaluated in an objective manner by perons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate and reliable results.

IV

It is further ordered, That respondent The Winning Combination, Inc., a corporation, shall distribute a copy of this order to each of its operating divisions and to each officer and other person responsible for the preparation or review of advertising materials at the time this order becomes effective.

V

It is further ordered, That, for a period of five (5) years from the date that any representation covered by this order is last disseminated, respondents The Winning Combination, Inc., a corporation, and Andrew Lessman, individually and as an officer of said corporation, shall maintain and, upon request, make available to the Commission for inspection and copying, all advertising promotional and/or sales materials containing any representation covered in this order and all materials relied upon to substantiate such representation, and all test reports, studies, surveys, demonstrations or other evidence in respondents' possession or control that contradict, qualify or call into question either the representation or the basis upon which respondents relied in making the representation.

VI

It is further ordered, That respondent Andrew Lessman shall promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten (10) years from the service date of this order, he shall promptly notify the Commission of each affiliation with a new business or employment whose activities relate to the manufacture, sale or distribtion of food or drug products, or of his affiliation with a new business or employment in which his own duties and responsibilities relate to the manufacture, advertising, offering for sale, sale or distribution of food or drug products. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VII

It is further ordered, That respondent The Winning Combination, Inc., a corporation, shall:

(A) Notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation of dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of his order; and

(B) Require, as a condition precedent to the closing of the sale or other disposition of 50 percent of the stock or assets of The Winning Combination, Inc., that the acquiring party file with the Commission, prior to the closing of such sale or other disposition, a written agreement to be bound by the provisions of this order.

VIII

It is further ordered That respondents The Winning Combination, Inc., and Andrew Lessman shall, within one hundred twenty (120) days after service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order, including, but not limited to, the names and addresses

of all recipients of materials distributed pursuant to part IV of this order.

Analysis Of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order from The Winning Combination, Inc. (TWC), a corporation, and Andrew Lessman (Lessman).

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and take other appropriate action, or make final the proposed Order contained in the agreement.

This matter concerns advertisements by TWC for its Essential Factors with Oxy-Energizer, a nutritional supplement. Lessman is the president and owner of TWC.

The Complaint alleges that TWC and Lessman engaged in deceptive advertising in violation of sections 5 and 12 of the Federal Trade Commission Act by falsely claiming that Essential Factors with Oxy-Energizer had been scientifically proven to:

(1) prevent fatigue and tiredness; and

(2) provide energy, stamina and endurance beyond its caloric value.

The Complaint also alleges that the advertising implied, falsely, that TWC and Lessman had scientific substantiation for the claims that Oxy-Energizer prevents fatigue and tiredness and provides energy beyond its caloric value. In addition, the complaint alleges that the advertising falsely claimed that the United States Government has accepted the active ingredient in Oxy-Energizer as effective for relieving fatigue and providing extra energy.

The consent order contains provisions designed to prevent misrepresentations related to these specific matters and others. Part I of the order prohibits TWC and Lessman from misrepresenting that Essential Factors with Oxy-Energizer or any similar product has been scientifically proven to prevent fatigue or tiredness, has been scientifically proven to provide energy, stamina or endurance beyond its caloric value, or that it has been accepted by the United States Government as effective for relieving fatigue or providing extra energy.

Part II of the order prohibits TWC and Lessman from misrepresenting, in connection with the sale or advertising of health-related services or products, the contents, validity, results, conclusions or interpretations of any test or study.

Part III of the order prohibits TWC and Lessman from representing that consumption of any product prevents fatigue and tiredness or provides energy beyond its caloric value unless they possess and rely upon a reasonable basis, consisting of competent and reliable scientific evidence, to substantiate the representation.

The remainder of the order contains standard record-retention and notification provisions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

Concurring Statement of Commissioner Deborah K. Owen

In the matter of The Winning Combination, Inc.

Although I concurred in the decision to accept the proposed consent agreement in this matter for public comment, I would have preferred to expand one aspect of the draft complaint and the consent agreement.

The advertisements attached to the Commission's draft complaint are replete with references to "extra energy," and "increases" or "improvements in stamina." As a result, based on the evidence available to date, in my view, the most clearly implied message in the challenged ads was that the "Essential Factors" product would reduce fatigue, rather than prevent it, as the complaint alleges. However, because references in the ads could also make a claim that the product will prevent fatigue, the preferred course would have been to allege both types of claims. To parallel this allegation, part I of the order prohibiting specified misrepresentations should also prohibit misrepresentations of fatigue reduction claims. Finally, I would have preferred that the order's substantiation requirement also explicitly cover fatigue reduction, as well as other efficacy or performance claims related to fatigue. Although it is possible that part III.B of the order relating to claims that the product provides energy beyond its caloric value can be read to include such claims, I would favor greater clarity in this regard, to facilitate compliance and enforcement.

[FR Doc. 92-14088 Filed 6-15-92; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of GSA Acquisition Policy (VP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection, 3090-0027, GSAR part 542—Contract Administration & part 546—Quality Assurance. This information is used by various contract administration and other support offices for quality assurance, acceptance of supplies and services, shipments, and to justify payments.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW, Washington, DC 20405.

Annual Reporting Burden:

Respondents: 8,100; annual responses: 76.0; average hours per response: .03; burden hours: 17,300.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, (202) 501-1224. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F Street NW., Washington, DC 20405, telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: June 3, 1992.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 92-14058 Filed 6-15-92; 8:45 am]

BILLING CODE 6820-61-M

Record of Decision, Crystal City Site

ACTION: Record of Decision to purchase land at the "Crystal City Site" on which to construct and occupy one million occupiable square feet (OSF) of office and related space, with the potential to lease up to an additional one million OSF of office and related space for use by the Naval Systems Commands (Navy) in Arlington County, Virginia.

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500-1508), General Services Administration (GSA) Order PBS P 1095.4B, and Chief of Naval Operations Instruction 5090.1A, GSA, in cooperation

with the Department of the Navy, announces its decision to purchase land at the "Crystal City Site" on which to construct and occupy one million OSF of office and related space, with the potential to lease up to an additional one million OSF of office and related space for use by the Navy in Arlington County, Virginia.

This action was identified as the "preferred alternative" in a Supplemental Draft Environmental Impact Statement (SDEIS) distributed to the public on February 21, 1992. The action is the acquisition of 16.8 acres of land in Arlington County, Virginia, bounded on the west by Hayes Street, on the south by 15th Street, on the east by Fern Street, and on the north by 12th Street. This site is also known as the "AT&T parcel." An office complex of not more than one million OSF (1.4 million gross square feet) will be constructed by GSA on this site, along with a detached parking structure capable of accommodating 1,800 vehicles. In addition, up to one million OSF of existing office space and 1,750 parking spaces in Crystal City may, at the option of the Government, be leased to accommodate the Navy's future housing needs.

The Naval Systems Commands currently occupy approximately 2.4 million occupiable square feet (OSF) of space leased by GSA in 20 separate buildings located in the Crystal City area of Arlington County, Virginia; and in the City of Alexandria, Virginia. Many of the Commands are located in several facilities thus decreasing the administrative and working efficiency of the affected Commands. Many of the Systems Commands comparatively inexpensive long-term leases have expired over the last two years. Expiration of long-term leases has forced GSA into executing new leases at significantly higher rates than those under the previous long-term leases. This has resulted in substantially increasing housing costs to the Government. In addition, some older existing facilities are in need of extensive repairs in order to meet minimum GSA quality standards.

To address these issues, GSA, in cooperation with the Department of the Navy, proposed Government acquisition of a site suitable for Government construction of one million OSF of office and related space, and, if approved by Congress, procurement of up to an additional one million OSF of office and related space from a private sector owner on a privately-owned site.

The Government evaluated three alternatives for implementing the proposed action including No Action; construction/rehabilitation of two million OSF of office space on a Government-owned site; and, construction/rehabilitation of two million OSF of office space on a developer-controlled site. The No Action alternative was eliminated as this alternative would necessitate the continued leasing of unsuitable space at high cost to the Government.

For the latter two alternatives, two Government-owned and 16 developer-controlled sites were initially evaluated under the Government's Site Selection Process. One Government-owned and 12 developer-controlled sites were rejected for further consideration because in the Government's determination the sites either did not possess the development potential to support at least two million OSF of space without constituting an unreasonable intrusion on the local community or were grossly incompatible with local land use plans and objectives.

During the technical evaluation of the remaining five potential sites, the remaining Government-owned and one developer-controlled site were found to possess site characteristics that, in the Government's determination, would unduly complicate site development, or unreasonably delay construction and occupancy of the facility. Accordingly, these two sites were eliminated from further consideration. The remaining three developer-controlled sites, Crystal City, Eisenhower Avenue, and Van Dorn, were evaluated in detail in the SDEIS. Based on the environmental impact analysis presented in the SDEIS, the Crystal City site was found to be the environmentally preferred alternative. Based on technical and cost criteria, the Government found the Crystal City site to be the preferred alternative.

All practicable means to avoid or minimize environmental impacts to the Crystal City area have been adopted. As part of the action, the existing warehouse structure on the AT&T parcel of the Crystal City site will be demolished. This structure is known to contain asbestos containing materials. GSA will conduct all demolition, asbestos removal, and off-site disposal in accordance with GSA's Asbestos Abatement Procedures (Sections 02060, 02085, and 02085–R), which include compliance with applicable state, local, and U.S. Environmental Protection Agency regulations. The parcel also contains three underground storage tanks, one of which has leaked in the past. GSA will prepare and implement a Corrective Action Plan that will address the removal and disposal of this tank and associated petroleum contaminated soil. The Plan will be submitted to the Arlington County Office of Environmental Affairs and to the Virginia State Water Control Board for review and concurrence prior to plan implementation.

Even if the Government does not implement the proposed action at the Crystal City Site, background traffic congestion by the year 2000 will require substantial regional and localized mitigation measures above those planned or programmed by the Virginia Department of Transportation or Arlington County. Because the Systems Commands are currently located in the Crystal City area, current and future Navy traffic will contribute to this congestion even under the No Action alternative. Implementation of the proposed action will significantly increase localized traffic congestion above projected background traffic levels, particularly around the AT&T parcel. Regional traffic impacts resulting from the proposed action, though, will not significantly increase beyond projected regional background traffic.

To partially mitigate localized impact GSA will undertake two actions: First, GSA will grant a transportation easement along the 15th Street (south) side of the AT&T parcel to Arlington County so that the County may construct and maintain additional traffic or turning lanes adjacent to the site to improve traffic flow; second, GSA and the Navy will implement an aggressive Transportation Management Plan (TMP) that will, at a minimum, include a market-based parking fee system designed to encourage high-occupancy vehicle use (car and vanpools), a car and vanpool incentive program, and designation of approximately 90 percent of on-site parking for car and vanpools. The TMP may also include implementation of a "guaranteed ride home program," preferential parking locations for high-occupancy vehicles, vehicle storage, shower, and locker room facilities for bicycle commuters, as well as additional TMP elements designed to increase the use of public transportation. GSA and the Navy will coordinate preparation of the TMP with Arlington County and with the National Capital Planning Commission.

Although an increase in carbon monoxide from vehicle exhausts will occur as a result of the projected increases in traffic in the Crystal City area, this increase will be minor and will not exceed Federal air quality standards.

Although Arlington County will experience a loss in tax revenues resulting from Government purchase and ownership of privately-held land, the Government has determined that

this impact is minor. The Government has determined that implementation of the proposed action at either of the two alternative locations would result in a greater short run revenue loss for Arlington County than implementation under the Crystal City alternative due to the relocation of 2.4 million OSF of Navy-occupied space, plus an undetermined amount of private sector contract personnel from Arlington County to the City of Alexandria, and the need to backfill this space over a greater or lesser period of time.

Existing public recreational facilities proximate to the Crystal City Site are insufficient to serve local community needs as well as increased Navy needs resulting from the proposed action. To mitigate the impact of Government occupancy of a facility at the AT&T parcel, GSA has arranged for 1.8 acres of the parcel to be deeded to Arlington County for use as a park or other public open space as mutually agreed to by GSA and Arlington County officials. In addition, GSA will construct a physical fitness center on-site to further mitigate intensive Navy use of similar community facilities.

Neither Federally-protected wetlands nor endangered or threatened species will be affected by implementation of the proposed action at the Crystal City Site. GSA will implement Best Management Practices for erosion control during construction in compliance with Arlington County regulations implementing the Chesapeake Bay Preservation Act.

Existing and planned utility services (e.g., water, sanitary sewer, electrical) are sufficient to accommodate the proposed action under the Crystal City alternative.

No cultural or historic resources listed, or determined to be eligible for listing on the National Register of Historic Places, will be affected by the proposed action.

GSA, in cooperation with the Navy, filed a Draft Environmental Impact Statement (DEIS) on November 30, 1990, for this project, and held public hearings in Arlington County, Virginia, on January 8, 1990, and in the City of Alexandria on January 10, 1990. Subsequent to distribution of the DIS, the scope and alternatives of the action changed, thus requiring GSA to prepare the SDEIS. The SDEIS was distributed to the public on February 21, 1992, and public hearings were held April 1, 1992, in Arlington County, and on April 2, 1992, in Alexandria. In general, public comments centered on traffic impacts, air emissions, and fiscal impacts. GSA filed a Final EIS with the United States Environmental Protection Agency on April 17, 1992.

GSA and the Navy believe that there are no outstanding environmental issues to be resolved with respect to the Naval Systems Commands Consolidation in Northern Virginia. Questions regarding the EIS prepared for this action may be directed to Mr. George Chandler, NCR Planning Staff (WPL), GSA National Capital Region, room 7618, 7th and D Streets, SW., Washington, DC 20407, telephone 202/708–5334.

Dated: May 28, 1992.

James C. Handley,

Regional Administrator, General Services Administration.

[FR Doc. 92–14061 Filed 6–15–92; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Announcement Number 245]

Environmental Health Education Activities for Educating Health Professionals Concerned With Human Exposure to Environmentally Hazardous Substances

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 1992 funds for a cooperative agreement program for state departments of health and state departments of environment to build state capacity for educating health professionals on health issues related to human exposures to hazardous substances in the environment.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of Healthy People 2000, see the Section Where to Obtain Additional Information.)

Authority

This program is authorized under sections 104(i) (14) and (15) of the comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. 9604(i) (14 and (15).

Eligible Applicant

Assistance will be provided only to the official health departments and/or environmental departments of the states or their bona fide agents or instrumentalities. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments.

Availability of Funds

Approximately $643,000 is available in FY 1992 to fund approximately 12 new awards totaling approximately $410,000 and 7 non-competing continuations totaling approximately $233,000. It is expected that the average award will be $40,000 ranging from $30,000 to $45,000. The awards will begin on or about September 30, 1992, and are made for a 12-month budget period within a project period of up to 2 years. Funding estimates may vary and are subject to change. Applicants should specify whether they are applying for 1 or 2 years of funding. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies, and services. Funds for contractual services may be requested; however, the awardee, as the direct and primary recipient of the PHS funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. Equipment may be purchased with grant funds; however, justification must be provided which should include a cost comparison of purchases versus lease.

Purpose

The purpose of the program is to assist state health departments and state environmental departments to identify, develop, disseminate, and evaluate appropriate educational materials on the medical surveillance, screening, and methods of diagnosis and treatment of injury or disease related to exposure to hazardous substances found at or near Environmental Protection Agency (EPA) Superfund sites. (Superfund sites are defined as sites proposed to be on the EPA's National Priorities List (NPL) or any sites for which Superfund monies have been

expended). These educational efforts include short courses appropriate to Superfund, such as those on hazardous substances found at Superfund sites, chemicals on the priority pollutant list, environmental exposure histories, and issues related to exposure to hazardous substances in underserved/minority areas. These courses should emphasize those substances prioritized by ATSDR and the Environmental Protection Agency. (This ranked list appears in **Federal Register** issue 56 FR 52166, October 17, 1991.)

This is a program to build state capacity, that is, to enable states to respond to health professionals' questions about the potential health effects of exposure to toxic substances in the environment. The applicant should demonstrate significant contribution to and primary responsibility for the design, implementation, and evaluation of the projects. Emphasis should be placed on both public and private health professionals who are concerned about disease prevention, diagnosis and treatment of illness in populations potentially exposed to hazardous substances found at Superfund sites.

Sample goals for projects funded by this award include the following:

- Educate primary care physicians in the state on how to diagnose potential health effects of exposure to hazardous substances from Superfund sites.
- Conduct site-specific training activities to educate health professionals about health concerns related to Superfund hazardous substances.
- Develop and distribute resource guides and other materials with relevant and up-to-date information about hazardous substances found at Superfund sites.
- Develop regular mechanisms of interaction among public and private health organizations and professionals concerned with the potential exposure and health effects of Superfund hazardous substances.
- Build state capacity so that the department of health or environment may serve as a resource in responding to health professionals' requests and concerns related to exposure to hazardous substances.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A., below, and ATSDR will be responsible for conducting activities under B., below:

A. Recipient Activities

1. Develop, implement, and evaluate educational materials or methods to improve the skills and knowledge of health-care providers concerning potential exposure to hazardous substances at or near Superfund sites.

2. Develop and distribute resource guides that contain relevant and up-to-date information concerning Superfund sites and chemicals, including environmental health references and local, state, and Federal resources and contacts.

3. Promote the development of educational activities and instructional methods relevant to Superfund sites and/or chemicals. Activities include grand rounds, conferences, and workshops (may be held in conjunction with existing local and national professional meetings). Also, promote the development of methods or materials to improve the knowledge and skills of health-care providers in determining potential hazardous substance exposures as an integral part of their patient workup.

4. Develop materials and methods to be used by health-care providers in communicating and counseling their patients about health risks concerning potential exposure to hazardous substances found at or near Superfund sites.

5. Promote the use of effective resources to furnish health-care providers with information about hazardous substances at or near Superfund sites.

6. Assess program effectiveness by outlining an evaluation plan that includes process and impact measures.

7. Consider the option to devote 25% of the state's efforts under this cooperative agreement to a demonstration project in community health education related to potential exposure to hazardous substances at Superfund sites.

B. ATSDR Activities

1. Collaborate with the recipient in developing a resource guide.

2. Collaborate with the recipient to determine effective methods to enhance skill and knowledge required for appropriate medical surveillance, screening, treatment, and prevention of injury or disease related to exposure to hazardous substances at Superfund sites.

3. Collaborate with the recipient in identifying successful health communication methods for health-care practitioners concerned about their patients who are potentially exposed to hazardous substances found at Superfund sites.

4. Collaborate with the recipient in evaluating the effectiveness of educational materials and activities.

5. Participate in state-based hospital grand rounds, workshops, conferences, and seminars to exchange current information concerning the diagnosis, treatment, and prevention of illness or injury associated with exposure to hazardous substances.

6. Collaborate with the recipient in developing and reviewing all materials and ensuring scientific consistency.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria.

1. Proposed Project and Appropriateness of Project Design—40%

The adequacy of the proposal relative to the:

a. Project purpose;

b. Rationale of project;

c. Applicant's justification of the need or problem to be addressed;

d. Identification of a target group;

e. Quality of project objectives in terms of specificity, measurability, and feasibility;

f. Specificity and feasibility of the applicant timetable for implementing project activities;

g. Thoroughness of the approach to be used in carrying out project, including measurability;

h. Appropriateness and feasibility of the methods used to carry out the project;

i. Focus of at least 50% of the program activities on NPL sites; otherwise, the focus should be on priority pollutants as discussed in the "Purpose" section; and

j. Evidence to assure that the project does not duplicate other training programs.

2. Applicant Capability and Coordination Effort—30%

a. Ability of the applicant to provide staff required to perform the applicant's responsibilities in the project, including specific staff and credentials (when possible);

b. Applicant's basic knowledge required to perform the applicant's responsibilities in the project; and

c. Ability of the applicant to provide other resources required to perform the applicant's responsibilities in the project.

3. Program Evaluation—30%

a. Appropriateness of the methods used to evaluate project;

b. Thoroughness of the methods used to evaluate project; and

c. Extent to which evaluation plan includes measures of program outcome (i.e., effect on participants' knowledge, attitudes, and behaviors).

4. Project Budget—(Not scored)

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of funds.

5. Review of Continuation Applications

Continuation awards within the project period will be made on the basis of the following criteria:

a. Satisfactory progress has been made in meeting project objectives;

b. Objectives for the new budget period are realistic, specific, and measurable;

c. Proposed changes in described long-term objectives, methods of operation, need for cooperative agreement support, and/or evaluation procedures will lead to achievement of project objectives; and

d. The budget request is clearly justified and consistent with the intended use of cooperative agreement funds.

Executive Order 12372 Review

Applications are subject to the Intergovernmental Review of Federal Programs as governed by Executive Order 12372. E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC for each affected state. A current list of SPOCs is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Henry S. Casell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Atlanta, Georgia 30305, no later than 60 days after the application deadline date for new and competing awards. The granting agency does not guarantee to "accommodate or explain" state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.161.

Other Requirements

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Application Submission and Deadline

The original and two copies of the application PHS form 5161–1 must be submitted to Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305 on or before July 15, 1992. (By formal agreement, the CDC Procurement and Grants Office will act on behalf of and for ATSDR on this matter.)

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on applications procedures, an application package, and business management assistance may be obtained from Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Roads, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305; telephone: (404) 842–6797. Programmatic technical assistance may be obtained from Neannette May, M.P.H., Division of Health Education, Agency for Toxic Substances and Disease Registry, Mailstop E–33, 1600 Clifton Road, NE., Atlanta, Georgia 30333; telephone: (404) 639–6205.

Please Refer to Announcement Number 245 When Requesting Information and Submitting an Application

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–783–3238).

Dated: June 10, 1992.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 92–14062 Filed 6–15–92; 8:45 am]

BILLING CODE 4160–70–M

[Announcement Number 233]

Surveillance to Determine the Relationship Between Human Exposure to Hazardous Substances and Adverse Health Outcomes

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 1992 funds for a grant program for surveillance to determine the relationship between human exposure to hazardous substances in the environment and adverse health outcomes (e.g., birth defects and reproductive disorders, cancer [selected sites], immune function disorders, kidney dysfunction, liver dysfunction, lung and respiratory diseases and neurotoxic disorders).

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Health People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Environmental Health and Surveillance and Data Systems. (For ordering a copy of Healthy People 2000, see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Authority

This program is authorized under sections 104(i)(1)(E) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9604 (i)(1)(E) and (15)].

Eligible Applicants

Eligible applicants are the official public health agencies of the states or

their bona fide agents or instrumentalities. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments. Local health jurisdictions may apply with written concurrence of the state health officer.

Availability of Funds

Approxiamtely $150,000 is available in FY 1992 to fund approximately 1–2 awards. It is expected that the average awards will be $75,000, ranging from $50,000 to $100,000. It is expected that the awards will begin on or about September 30, 1992, and are usually made for a 12-month budget period within a project period of up to 3 years. The length of the project period will depend on the complexity of the problems associated with any particular surveillance project. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies, and services. Funds for contractual services may be requested. However, the grantee, as the direct and primary recipient of PHS grant funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party.

Purpose

The purpose of this surveillance activity is to enhance the recipients' capabilities to characterize the relationship between exposure to hazardous substances and adverse health outcomes through the development of surveillance activities.

Epidemiologic surveillance can be defined as "the ongoing and systematic collection, analysis, and interpretation of health data in the process of describing and monitoring a health event." Data obtained through surveillance are very important for appropriate decisions regarding the planning, evaluating, or implementing of public health interventions. Surveillance has proven to be valuable for monitoring the occurrence of infectious diseases, occupational illnesses, and injuries. Although data have been developed from occupational illness which correlates the association of high levels of exposure to specific hazardous substances with certain adult diseases, few studies have addressed the potential risk posed to various age groups by relatively low-level exposure to hazardous substances over a long period of time.

Surveillance provides a unique tool to evaluate low-level exposures. Surveillance can be conducted for different geographic locations and/or for different population subsets. For purposes of this program, the following types of surveillance are applicable:

A. State-Based

Most state health departments have or can access a variety of health outcome and environmental data bases such as the mandatory registration of vital events or municipal water testing. State-based surveillance attempts to link these diverse preexisting data bases proactively, to analyze any ecological correlations that may arise, and to conduct appropriate follow-up studies, as necessary.

B. Site-Specific

Residential settings located near hazardous waste sites provide populations and environments for surveillance which can help elucidate the importance of the many interacting factors in the exposure/disease relationship. Surveillance at a particular site may focus on specific hazardous substances at that site, as well as monitoring plausible health outcome data (morbidity or mortality) for a specific medical condition. Periodic follow-up of a well-defined, unexposed cohort can be a useful measure of baseline patterns for that disease. the site-specific surveillance may detect usual or unusual patterns of disease. The latter may trigger further investigations, such as a study of exposed individuals or an analytic epidemiology study.

C. Hazardous Waste Workers

It is reasonable to assume that workers employed in the cleanup of hazardous waste would have a greater exposure to toxic substances than the general public. Although actual contaminant exposures may not be documented, the potential for this exposure exists. Therefore, surveillance of hazardous waste workers may provide insight into the health effects related to human exposure to toxic substances.

Using the Occupational Safety and Health Administration's classification to identify hazardous waste occupations, the following job descriptions are considered for inclusion in the ATSDR hazardous waste workers surveillance program:

1. Workers employed in the cleanup of uncontrolled hazardous waste disposal sites that have been identified for remedial action by a governmental health or environmental agency; and

2. Workers performing routine operations or corrective actions at hazardous waste treatment, storage, and disposal facilities.

Surveillance of hazardous waste workers would identify cohorts of workers meeting the above definition that can be followed to monitor plausible health outcome data (morbidity or mortality) for a specific medical condition. The surveillance may detect usual or unusual patterns of disease. The latter may trigger further investigations, such as a study of exposed individuals, an analytic epidemiology study, or may demonstrate a need to change worker training.

Program Requirements

ATSDR will provide financial assistance to applicants in conducting surveillance activities to explore the relationship between exposure to hazardous substances and the occurrence and risk factors for disease. The program requirements include, but are not limited to, surveillance activities designed to evaluate the occurrence of adverse health effects over time in a population. This will include the evaluation of the incidence or prevalence of a disease, disease symptoms, self-reported health concerns, or biological markers of disease, or exposure. Efforts should be made to link information on adverse health effects with environmental data.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Scientific and Technical Review Criteria of New Applications

a. Appropriateness and Knowledge of Surveillance Design—30%

The extent to which the applicant's proposal addresses:

(1) A rationale for the surveillance;

(2) The identification of a potentially exposed population;

(3) The identification of an appropriate reference population with which to compare morbidity and and mortality rates;

(4) A plan for exposure assessment and/or a plan for evaluating adverse health outcomes; and

(5) A detailed plan for analysis of the data.

b. Proposed Surveillance—30%

The adequacy of the proposal relevant to:

(1) The surveillance purpose, objectives, and rationale;

(2) The quality of program objectives in terms of specificity, measurability, and feasibility;

(3) The specificity and feasibility of the applicant's timetable for implementing program activities and timely completion of the surveillance;

(4) The likelihood of the applicant agency completing proposed program activities and attaining proposed objectives based on the thoroughness and clarity of the overall program; and

(5) A plan for phasing out surveillance.

c. Applicant Capability and Coordination Efforts—15%

The extent to which the proposal has described:

(1) The capability of the applicant's administrative structure to foster successful scientific and administrative management of a surveillance program;

(2) The capability of the applicant to demonstrate an appropriate plan for interaction with the community; and

(3) The suitability of facilities and equipment available for the project.

d. Quality of Data Collection—15%

The extent to which:

(1) The questionnaire ascertains the information necessary to meet the objectives, including (but not limited to) information on pathways of exposure and confounding factors;

(2) The quality control and quality assurance of questionnaire data are provided, including (but not limited to) interviewer training and consistency checks of data;

(3) The laboratory tests (if applicable) are sensitive and specific for the analyte or disease outcome of interest;

(4) The quality control, quality assurance, precision, and accuracy of information for the proposed tests are provided and acceptable; and

(5) The quality control and assurance of secondary data sets to be used are provided and acceptable.

e. Program Personnel—10%

The extent to which the proposal has described:

(1) The qualification, experience, and commitment of the principal investigator, and his/her ability to devote adequate time and effort to provide effective leadership; and

(2) The competence of associate investigators and support staff to accomplish the proposed surveillance activities, their commitment, and the time they will devote to the project.

f. Program Budget—(Not Scored)

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of grant funds.

2. Review of Continuation Applications

Continuation awards within the project period will be made on the basis of the following criteria:

a. Satisfactory progress has been made in meeting project objectives;

b. Objectives for the new budget period are realistic, specific, and measurable;

c. Proposed changes in described long-term objectives, methods of operation, need for grant support, and/or evaluation procedures will lead to achievement of project objectives; and

d. The budget request is clearly justified and consistent with the intended use of grant funds.

Executive Order 12372 Review

Applications are subject to the Intergovernmental Review of Federal Programs as governed by Executive Order 12372. E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contacts (SPOCs) as early as possible to alert them to the prospective applications and to receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC for each affected state. A current list of SPOCs is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Atlanta, Georgia 30305, no later than 60 days after the application deadline date for new and competing awards. The granting agency does not guarantee to "accommodate or explain" state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 83.161.

Application Submission and Deadline Dates

The original and two copies of the application PHS Form 5161–1 must be submitted to Henry S. Cassel, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Mail Stop E–14, Atlanta, Georgia 30305, on or before June 30, 1992. (By formal agreement, the CDC Procurement and Grants Office will act for and on behalf of ATSDR on this matter.)

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications that do not meet the criteria in 1(a) or 1(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package and business management assistance may be obtained from Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Mail Stop E–14, Atlanta, Georgia 30305, or by calling (404) 842–6797. Programmatic technical assistance may be obtained from Dr. Wendy E. Kaye, Chief, Epidemiology and Surveillance Branch, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road NE., Mail Stop E–31, Atlanta, Georgia 30333 or by calling (404) 639–6203.

Please Refer to Announcement Number 233 When Requesting Information and Submitting an Application

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents,

Government Printing Office, Washington, DC 20402–9235 (Telephone: 202–783–3238).

Dated: June 9, 1992.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 92–14063 Filed 6–15–92; 8:45 am]

BILLING CODE 4160–70–M

[Announcement Number 224]

Health Studies Initiative of Priority Health Conditions; Availability of Funds for Fiscal Year 1992

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces that grant applications will be accepted to conduct health studies as they relate to hazardous substances and which investigate health conditions prioritized by ATSDR, with emphasis on birth defects and reproductive disorders.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of Health People 2000, see Section **"Where To Obtain Additional Information."**)

Authority

This program is authorized in sections 104(i)(1)(E), (7), (9), and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)(1)(E), (7), (9), and (15)).

Eligible Applicants

Eligible applicants are states and the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and political subdivisions thereof, including federally recognized Indian tribal governments. State organizations, including state universities, state colleges, and state research institutions, must affirmatively establish that they meet their respective state's legislative definition of a state entity or political subdivision to be considered an eligible applicant.

Availability of Funds

Approximately $2,000,000 is available in fiscal year 1992 to fund 1 to 3 new awards and 1 to 3 non-competing continuation awards. It is expected that new awards will range from $75,000 to $300,000 for the first year and will be made on or about September 30, 1992. It is anticipated that awards will be for a 12-month budget period with a proposed project period of 1 to 3 years. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds. ATSDR anticipates that funds will be available in fiscal year 1993 to continue approved projects, and may be available to fund a limited number of new projects. Funding estimates may vary and are subject to change.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies, and services. Funds for contractual services may be requested; however, the grantee, as the direct and primary recipient of PHS grant funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. Equipment may be purchased with grant funds, however, justification must be provided which should include a cost comparison of purchase versus lease.

Purpose

The purpose of this announcement is to solicit scientific proposals designed to study the occurrence of/and risk factors for priority adverse health conditions, with emphasis on birth defects and reproductive disorders, including studies of cardiac congenital malformations and/or neural tube defects at Superfund sites. The ATSDR Priority Health Conditions are (in alphabetical order): Birth defects and reproductive disorders, cancers (selected sites), immune function disorders, kidney dysfunction, liver dysfunction, lung and respiratory diseases, and neurotoxic disorders. Studies should utilize existing data sources to the maximum extent possible. One such data source that exists within ATSDR and is available for use by researchers is the TCE Subregistry, a list of persons enrolled on the National Exposure Registry. Priority will be given to studies using data from multiple sites, such as ecologic studies, which will assess the health status of several communities. This will improve the recipients' ability to address potential public health problems related to exposure to hazardous substances.

Program Requirements

ATSDR will provide financial assistance to applicants in developing methods and technologies to explore the relationship between exposure to hazardous substances and occurrence and risk factors for priority adverse health conditions with emphasis on birth defects and reproductive disorders. ATSDR is also interested in funding applicant programs that identify human populations at higher risk of birth defects and reproductive disorders resulting from exposure or toxicity caused by hazardous substances in their environment. The program requirements include, but are not limited to, studies designed to:

1. Evaluate the occurrence of adverse health effects in a population. This will include the evaluation of the incidence or prevalence of a disease, disease symptoms, self-reported health concerns, or biological markers of disease, susceptibility, or exposure.

2. Identify risk factors for adverse health effects in populations. This will include hypothesis generated cohort or case-control studies on potentially impacted populations to identify linkages between exposure and adverse health effects and those risk factors which may be impacted by prevention actions.

3. Develop methods to diagnose adverse health effects in populations. This will include medical research to evaluate currently available biological tests (biomarkers) and disease occurrence in potentially impacted populations.

Evaluation Criteria

The review for scientific and technical merit by an objective review group will be based on the following criteria:

1. Proposed Program 50%

The extent to which the applicant's proposal addresses:

(a) The scientific merit of the proposed project, including the originality and feasibility of the approach; background and literature review; adequacy, and rationale of the design;

(b) The specific study objectives and scientific hypothesis;

(c) The technical merit of the methods and procedures (including QA/QC procedures) for the proposed project, including the degree to which the project can be expected to yield or demonstrate results that meet the program objective as described in the **Purpose** section of this announcement;

(d) The proposed project schedule, including clearly established and obtainable project objectives, and activity time lines for which progress

toward attainment can and will be measured.

2. Program Personnel 30%

The extent to which the proposal has described:

(a) The qualifications, experience, and commitment of the principal investigator, and his/her ability to devote adequate time and effort to provide effective leadership and

(b) The competence of associate investigators and support staff to accomplish the proposed study, their commitment, and the time they will devote to the project.

3. Applicant Capability 20%

Description of the adequacy and commitment of institutional resources to administer the program and the adequacy of the facilities as they impact on performance of the proposed study.

4. Program Budget—(Not Scored)

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of grant funds.

Continuation awards within the project period will be made on the basis of the following criteria:

1. Satisfactory progress has been made in meeting project objectives;

2. Objectives for the new budget period are realistic, specific, and measurable;

3. Proposed changes in described long-term objectives, methods of operation, need for grant support, and/or evaluation procedures will lead to achievement of project objectives; and

4. The budget request is clearly justified and consistent with the intended use of grant funds.

Executive Order 12372

Applications are not subject to review as governed by Executive Order 12372, entitled "Intergovernmental Review of Federal Programs."

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.161, Health Programs for Toxic Substances and Disease Registry.

Application and Submission Deadline

The original and two copies of the application Form PHS 5161–1 must be submitted to Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mail Stop E–14, Atlanta, Georgia 30305, on or before July 24, 1992. (By formal agreement, the CDC Procurement and Grants Office will act on behalf of and for ATSDR on this matter.)

1. Deadline

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

2. Late Applications

Applications which do not meet the criteria in 1.a or 1.b above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

Additional information on application procedures, copies of application forms, other material, and business management assistance may be obtained from Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Mail Stop E–14, Atlanta, Georgia 30305; telephone: (404) 842–6797.

Programmatic assistance may be obtained from Dr. Jeffrey A. Lybarger, Director, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mail Stop E–31, Atlanta, Georgia 30333; telephone: (404) 639–6200.

Please Refer to announcement number 224 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238)

Dated: June 10, 1992.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 92–14059 Filed 6–15–92; 8:45 am]

BILLING CODE 4160–70–M

[Announcement Number 217]

Health Outcomes Studies on Human Exposure to Hazardous Substances and Adverse Health Effects

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of grant funds in fiscal year (FY) 1992 to continue its Superfund-related grant program to conduct health outcomes studies to determine the relationship between human exposure to hazardous substances in the environment and adverse health outcomes (e.g., birth defects and reproductive disorders, cancers (selected sites), immune function disorders, kidney dysfunction, liver dysfunction, respiratory diseases, and neurotoxic disorders).

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of Healthy People 2000, see the section **Where To Obtain Additional Information.")**

Authority

This program is authorized in section 104(i)(7)(A) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)(7)(A) and (15)).

Eligible Applicants

Eligible applicants are the official public health agencies of the states and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, the Northern Mariana Islands, American Samoa, and federally recognized Indian Tribal governments.

If the official public health agency decides to designate other state agencies or local health jurisdictions responsible for applying for funds, the official public health agency must provide written concurrence of this designation.

Note: Eligible applicants may enter into contracts (epidemiologic, medical consultant, statistical analysis, biological and environmental sampling, data entry, laboratory analysis, etc.) as necessary to meet the requirements of the program and strengthen the overall application.

Availability of Funds

Approximately $400,000 is available in FY 1992 to fund approximately 3 grant awards. It is expected that the average new award will be $133,000 for the first year, with the range being $100,000 to $300,000. The new awards are expected to begin on or about September 30, 1992. It is anticipated that awards will be for a 12-month budget period with a proposed project period ranging from 1 to 2 years. The length of the project period will depend on the complexity of the problems associated with any particular hazardous substance site. Continuation awards will be for the recommended project period indicated in the original award and will be made on the basis of satisfactory progress and the availability of funds. Funding estimates may vary and are subject to change.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies and services. Funds for contractual services may be requested; however, the grantee, as the direct and primary recipient of PHS grant funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. ATSDR has in place a contract to provide biological testing and analysis for use by grantees. Therefore, funding will not be available for laboratory services. Grant funds may not be used to purchase equipment.

Purpose

The purpose of this program is for the states to investigate and characterize the association between exposure to hazardous substances and adverse health outcomes. The activities will utilize (when feasible) ATSDR-developed biomarker panels to assist the states in identifying pre-clinical pathological changes with respect to exposure studies. To help the states develop a better understanding of hazardous substances, ATSDR will provide the states with standardized and compatible methods of data collection and analysis. This will help ATSDR to incorporate site-specific data with data from sites with similar exposures in a multi-site study design.

Project Types

Financial assistance will be provided to study the association between human exposure to hazardous substances in the environment and adverse health outcomes. The primary focus of these projects should be on specific health outcomes, although it is also important to measure the magnitude, pathway, and duration of potentially associated exposures. These projects should include, but need not be limited to, health endpoints measured by standard questionnaires and biomarkers of health outcomes.

ATSDR is particularly interested in similar studies conducted at multiple sites. Therefore, ATSDR is developing standardized questionnaires and organ system-specific panels of biomarkers of health outcomes. By incorporating these survey instruments and biomarker panels into the proposed studies, the recipient will be able to develop results that can be compared to other locations for health outcome trends. In addition, this will allow ATSDR to standardize the results and to increase the statistical power of the studies.

The areas of investigation for these projects may include:

(1) One or more of the seven priority health conditions identified by ATSDR, which are selected cancers, birth defects and reproductive diseases, kidney dysfunction, liver dysfunction, immune dysfunction, neurotoxic disorders, and lung and respiratory diseases. (The seven priority health conditions are not listed in priority order.)

(2) The health outcomes of residents in communities potentially exposed to hazardous waste incinerators.

(3) The health outcomes of residents in communities potentially exposed to environmental sources of dioxins and furans or chlorinated hydrocarbons.

(4) The health outcomes of residents in communities potentially exposed to complex to complex chemical mixtures at hazardous waste sites.

(5) The health outcomes of minority residents in communities potentially exposed to hazardous waste sites.

(6) The health outcomes of residents in communities potentially exposed to Volatile Organic Compounds (VOCs) from hazardous waste sites.

(7) The health outcomes of residents in communities potentially exposed to other hazardous substances.

Program Requirements

Grantees must meet the following requirements: In a grant the applicant is expected to conduct the health outcomes study of exposed individuals without ATSDR's substantial programmatic involvement. Therefore, the grantee's application should be presented in a manner that demonstrates the following:

1. The applicant must have the ability to address the environmental health problems.

2. The applicant's protocol should contain consent forms and questionnaires, baseline morbidity and mortality information, procedures for collecting biologic and environmental specimens and for conducting laboratory analysis and medical evaluation of the test results of biologic specimens and statistical and epidemiologic analysis of the study information, and a description of the safeguards for protecting the confidentiality of individuals on whom data are collected.

3. The principal investigator must have experience in the area of environmental epidemiology, demonstrate the ability to conduct epidemiological investigations, and be able to commit an appropriate amount of time in order to accomplish the study.

4. The applicant must have the ability to provide qualified staff, acceptable institutional resources, and knowledge to implement the provisions of the project.

5. The applicant must have the established capacity to collect and analyze data.

6. The applicant must indicate the proposed method of disseminating the study results to state and local public health officials, policy and decision-makers, community residents, and other concerned individuals and organizations.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Scientific and Technical Review Criteria of New Applications

A. Proposed Program—60%

The extent to which the applicant's proposal addresses:

(1) The scientific merit of the proposed project, including the originality of the approach and the feasibility, adequacy, and rationale of the design;

(2) The technical merit of the proposed project, including the degree to which the project can be expected to yield results that meet the program objective as described in the "PURPOSE" section of this announcement;

(3) The proposed project schedule, including clearly established and obtainable project objectives for which progress toward attainment can and will be measured; and

(4) The proposed method to disseminate the study results to state and local public health officials,

community residents, and other concerned individuals and organizations.

B. Program Personnel—30%

The extent to which the proposal has described:

(1) The qualifications, experience, and commitment of the principal investigator, and his/her ability to devote adequate time and effort to provide effective leadership, and

(2) The competence of associate investigators to accomplish the proposed study, their commitment, and the time they will devote to the study.

C. Applicant Capability—10%

Description of the adequacy and commitment of institution resources to administer the program and the adequacy of the facilities as they impact on performance of the proposed study.

D. Program Budget—(Not Scored)

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of grant funds.

2. Review of Continuation Applications

Continuation awards within the project period will be made on the basis of the following criteria:

A. Satisfactory progress has been made in meeting project objectives;

B. Objectives for the new budget period are realistic, specific, and measurable;

C. Proposed changes in described long-term objectives, methods of operation, need for grant support, and/or evaluation procedures will lead to achievement of project objectives; and

D. The budget request is clearly justified and consistent with the intended use of grant funds.

Executive Order 12372 Review

Applications are subject to the Intergovernmental Review of Federal Programs as governed by Executive Order 12372. Executive Order 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and to receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Mail Stop E–14, Atlanta, Georgia 30305, no later than 60 days after the application deadline date for new and competing awards. The granting agency does not guarantee to "accommodate or explain" state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.161, Health Programs for Toxic Substances and Disease Registry.

Application Submission and Deadline Dates

Applicants should follow the guidance provided in PHS form 5161–1 in preparing grant applications. The original and two copies must be submitted on or before July 20, 1992, to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Atlanta, Georgia 30305. By formal agreement, the CDC Procurement and Grants Office will act for and on behalf of ATSDR on this matter.

1. Deadline

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications

Applications that do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package and business management technical assistance may be obtained from Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Mail Stop E–14, Atlanta, Georgia 30305 or by calling (404) 842–6797.

Programmatic Assistance may be obtained from Robert W. Amler, M.D., M.S., Chief, Health Investigations Branch, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mail Stop E–31, Atlanta, Georgia 30333 or by calling (404) 639–6201.

Please refer to announcement number 217 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Dated: June 9, 1992.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

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[Program Announcement Number 227]

State Health Departments and Public Health Agencies to Conduct Public Health Assessments and Related Site-Specific Biological Testing

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 1992 funds for a cooperative agreement program to conduct (1) Preliminary Public Health Assessments and Public Health Assessments on sites listed or proposed for listing on the National Priorities List (NPL), excluding Federal facilities, and Resource Conservation and Recovery Act (RCRA) facilities; and/or (2) site-specific biological testing activities in communities where ATSDR's Health Activities Recommendation Panel (HARP) has determined that an imminent threat to public health exists. That determination must be based on data and information obtained in a Public Health Assessment, a Preliminary Public Health Assessment, a Public Health Advisory, or a Health Consultation.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce

morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of Healthy People 2000, see the section "Where To Obtain Additional Information.")

Authority

This program is authorized under Sections 104(i) (4), (6) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986 [42 U.S.C. 9604(i) (4), (6) and (15)].

Eligible Applicants

Eligible applicants are the official public health agencies of states or their bona fide agents or instrumentalities. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments.

Availability of Funds

Approximately $5,520,000 is available in FY 1992 to fund an estimated 20 awards. It is expected that the average new award will be $275,000, ranging from $100,000 to $400,000. It is expected that the awards will begin on or about September 30, 1992, and are usually made for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds. Supplemental funding is available for awards from $10,000 to $100,000 for site-specific biological testing.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies and services. Funds for contractual services may be requested. However, the awardee, as the direct and primary recipient of PHS grant funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. ATSDR has in place a contract to provide biological testing and analysis for use by recipients.

Purpose

The purpose of this program is for public health agencies, in coordination with ATSDR, to fulfill the mandated objectives of CERCLA and RCRA, as amended, by performing (1) Public Health Assessments and (2) biological testing at sites where a Public Health Assessment, Public Health Advisory, or Health Consultation has identified such a need.

Assessments, consultation, advisory, HARP and biological testing are defined as follows:

Public Health Assessment—is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, develop health advisories or other health recommendations, and identify studies or actions needed to evaluate and mitigate or prevent human health effects.

Preliminary Public Health Assessment—is prepared only when preliminary environmental contamination data are available or no relevant health outcome or environmental data exist (e.g., at the time the site is proposed for listing on the NPL). Preliminary Public Health Assessments may be followed by public Health Assessments if and when additional data become available. Preliminary Public Health Assessments may lead to the determination that specific public health actions, such as biological testing, are needed.

Health Consultation—is a written or verbal response to a specific question or specific request for information from ATSDR staff or a request for information about health risks posed by a specific site, chemical release, or hazardous material. Consultations may lead to specific recommendations, including public health actions such as biological testing. A Health Consultation may need to be prepared and indicated actions performed rapidly in order to mitigate or prevent adverse human health effects from exposure to hazardous substances in the environment.

Public Health Advisory—is a communication from the ATSDR Administrator to the Administrator of the Environmental Protection Agency (EPA), state health officials, and other pertinent individuals stating ATSDR's concern that a public health threat exists of such importance and magnitude that immediate action should be taken, including biological testing if indicated. The Public Health Advisory is also provided to the appropriate EPA regional office and state health department.

Health Activities Recommendation Panel (HARP)—is an ATSDR-wide multidisciplinary panel composed of staff with expertise in several fields including environmental epidemiology, medicine, environmental health, toxicology, and health education. HARP evaluates the data and information developed in the Public Health Assessments, Preliminary Public Health Assessments, Public Health Advisories, and Health Consultations using established criteria to determine the appropriate public health activities that should be undertaken in populations whose health is impacted by hazardous waste sites. Biological testing is among the determinations that may be made for a specific site.

Biological Testing—is an evaluation that uses standard medical tests to collect data about a defined population for the purpose of determining if exposure to hazardous substances poses an imminent threat to public health. Biological testing may be undertaken at sites for which HARP has determined that such activities are indicated, based on information developed in a Public Health Assessment, Preliminary Public Health Assessment, Public Health Advisory, or Health Consultation performed by ATSDR or by a state through a cooperative agreement with ATSDR. The testing will not require control groups or comparison populations, because test results will be compared to generally accepted medical standards (such as normal ranges for liver function studies or blood lead levels in children). For some substances, the technology and/or reference ranges for testing a compound or its metabolite (analyte) in human biologic systems may not exist. Therefore, biomedical tests may be administered to determine if adverse health conditions may be occurring in the exposed population. Testing will only be used to determine if exposure is currently occurring at levels of public health concern.

Program Requirements

In a cooperative agreement, ATSDR will assist the recipient in conducting the activities. The application should be presented in a manner that demonstrates the applicant's ability to address the health issues in a collaborative manner with ATSDR. In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A., below, and ATSDR shall be responsible for conducting activities under B., below:

A. Recipient Activities:

1. Public Health Assessments

a. Conduct Public Health Assessments, Preliminary Public Health

Assessments, and addenda to Public Health Assessments on non-Federal NPL sites within the territorial boundaries of the respective state in accordance with a work plan to be mutually agreed upon by ATSDR and recipient that complies with requirements of applicable sections of CERCLA, as amended. Public Health Assessments must be performed in accordance with the methodology provided in the ATSDR Health Assessment Guidance Manual, ATSDR's Review and Handling Producers for Public Health Assessments, and other applicable guidance.

b. The Public Health Assessment process will generally require that states perform the following activities:

(i) Acquire appropriate health and environmental data from relevant state agencies, EPA regional offices, as well as community concerns, independently or in conjunction with ATSDR staff. States must also conduct a site visit as part of performing a public health assessment for a site.

(ii) Conduct a comprehensive, multidisciplinary evaluation and analysis of appropriate extant data in accordance with the ATSDR Health Assessment Guidance Manual and other written/oral guidance. Such evaluation and analysis will include:

(a) Assessment, toxicity, and location of identified contaminants;

(b) Evaluation of actual or potential pathways of exposure;

(c) Assessment and evaluation of community concerns related to potential health impacts of the site;

(d) Assessment of the analytical data being reviewed to determine its reliability (i.e., if it meets all applicable quality assurance and quality control standards); and

(e) Identification of significant data gaps, inconsistencies, and environmental sampling needs;

(f) Comparison of rates or indices of relevant morbidity and mortality data on diseases that may be associated with measured, suspected, or potential levels of exposure related to the site, when applicable and where data are available.

(iii) Prepare draft Public Health Assessments or Preliminary Public Health Assessments which conform to ATSDR's Health Assessment Guidance Manual (including format) and ATSDR's Review and Handling Procedures for Health Assessments. Submit drafts to ATSDR for review in a format compatible with ATSDR software and document handling procedures. The drafts should address the following major areas of concern:

a. Identification of potentially hazardous substances;

b. Concentrations of concern by chemical and environmental media;

c. Environmental and human exposure pathways;

d. Judgment of the recipient as to whether the pathways constitute a public health problem and the basis for such judgment;

e. Impacted community's health concerns associated with the site under evaluation;

f. Overall public health implications of the site; and

g. Recommendations to mitigate or prevent human exposure, including appropriate public health actions and the need for follow-up activities, as necessary, including health studies, and environmental health education for health professionals and for communities whose health is impacted by the hazardous waste site(s) evaluated.

(iv) Participate in the ATSDR Health Activities Recommendation Panel (HARP) review of the Public Health Assessment or Preliminary Public Health assessment and comply with established review and handling procedures for incorporating the results of the HARP review into the Public Health Assessment or Preliminary Public Health Assessment.

(v) Make available the Public Health Assessments and/or the Preliminary Public Health Assessments to the general public for comment in accordance with the ATSDR Health Assessment Guidance Manual.

(vi) Participate in state health, environmental, and/or EPA public workshops and community meetings to discuss and/or respond to questions concerning a particular site's impact on public health.

(vii) Develop a final Public Health Assessment or Preliminary Public Health Assessment in collaboration with ATSDR that reasonably and responsibly incorporates comments and concerns elicited during the review process, such that the final product represents, insofar as possible, the consensus of the recipient and ATSDR.

(viii) On own initiative or upon request from ATSDR, if appropriate, perform addenda to Public Health Assessments of NPL sites previously performed by the recipient or ATSDR when additional data warrants.

2. Site-Specific Biological Testing

Conduct, when applicable, appropriate biological testing. Biological testing uses the measurement of a chemical (analyte), its metabolite (analyte), or another marker of exposure in human body fluids or tissues or standard medical testing of physiologic function in order to determine if exposure to a hazardous substance poses an imminent threat to public health. Control groups and comparison populations are not required. Conducting such testing will require the applicant to:

a. Implement the protocol and conduct the testing activities.

b. Analyze and interpret test results.

B. ATSDR Activities

1. Public Health Assessments

a. Collaborate with recipients in determining the schedule for conducting Public Health Assessments and Preliminary Health Assessments; assist the recipients in establishing and maintaining appropriate and timely schedules during the Public Health Assessment process; assist recipients in acquiring appropriate training for conducting Public Health Assessments; provide materials and applicable guidance in performing the Public Health Assessments and Preliminary Public Health Assessments.

b. Assist the public health agency in performing the Public Health Assessment. This assistance may include:

(1) Assisting the states in acquiring health and environmental data. Provide technical assistance and guidance in performing Public Health Assessments as needed, including participation in site visits.

(2) Provide technical assistance in the evaluation and analysis of appropriate environmental data, health outcome data, and community concerns, especially where ATSDR has unique capabilities. This assistance may include the following, as needed:

(i) Assist in assessing the toxicology of contaminants;

(ii) Assist in the evaluation of completed or potential pathways of exposure;

(iii) Assist in the evaluation of community health concerns as they relate to the potential public health impacts of the site;

(iv) Assist in interpreting analytic data and determining if the data meet applicable quality assurance and quality control standards;

(v) Assist in identification of significant data gaps or environmental sampling needs; and

(vi) Assist in obtaining or comparing relevant morbidity and mortality data.

(3) Assist the public health agency in preparation of the Public Health Assessments or Preliminary Public

Health Assessments. Collaborate with the recipients in the development of the Public Health Assessments and Preliminary Public Health Assessments through close technical review and comment and processing of draft documents.

(4) Conduct ATSDR's Health Activities Recommendation Panel (HARP) evaluation of the Public Health Assessment or Preliminary Public Health Assessment in a timely fashion. Review the HARP statement following the HARP review and provide technical assistance in developing the HARP statement.

(5) Provide assistance in addressing public comments received during the public comment period.

(6) Provide assistance and/or participate in public workshops and community meetings to discuss or respond to questions concerning a particular site's impact on public health.

(7) Assist in the publication of the final technically reviewed and approved Public Health Assessment or Preliminary Public Health Assessment.

c. Conduct program reviews to determine the status of the cooperative agreements and to discuss accomplishments, as well as problems and solutions. Evaluate the overall performance of recipients and adherence to technical and policy guidelines of ATSDR's health assessment process.

2. Site-Specific Biological Testing

a. Assist in implementing the protocol and conducting the testing activities.

b. Assist in analyzing and interpreting test results.

c. Provide technical and scientific review of the draft report.

Evaluation Criteria

A. Applications Will Be Reviewed and Evaluated According to the Following Criteria

1. Scientific and Technical Review Criteria of New Applications for Performing Public Health Assessments

a. *Proposed Program*—50%.

The extent to which the applicant's proposal addresses (1) the scientific merit of the proposed project, including approach, feasibility, adequacy, and rationale of the design; (2) the technical merit of the proposed project, including the degree to which the project can be expected to yield results that meet the program objective as described in the Purpose section of this announcement; (3) the proposed project schedule, including clearly established project objectives for which progress toward attainment can and will be measured and provide time lines for meeting these objectives; (4) the proposed mechanism to be utilized as a resource to address community concerns and opinions and create lines of communication; and (5) the proposed method to disseminate the results to state and local public health officials, community residents, and to other concerned individuals and organizations.

b. *Program Personnel*—30%.

The extent to which the proposal has described the (1) qualifications, experience, and commitment of the principal investigator (or project director) and his/her ability to devote adequate time and effort to provide effective leadership; and (2) the competence of associates to accomplish the proposal and their commitment and time they will devote.

c. *Applicant Capability—20%.*

Description of the adequacy and commitment of institutional resources to administer the program and the adequacy of the facilities as they impact on performance of the proposed investigation.

d. *Program Budget*—(not scored).

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of funds.

2. Scientific and Technical Review Criteria of Supplemental Applications for Performing Site-Specific Biological Testing

a. *Proposed Program*—50%.

The site must have been determined by HARP that biological testing is needed. The extent to which the applicant's proposal addresses (1) the scientific and public health merit of the proposed project, including the approach, feasibility, adequacy and rationale of the design; (2) the technical merit of the proposed project, including the degree to which the project can be expected to yield results that meet the program objective as described in the PURPOSE section of this announcement; (3) the objectives for the proposal are realistic, specific, and measurable; (4) protocol covers all aspects of the proposed project, including procedure to collect biological and environmental specimens, laboratory analysis and medical evaluation of test results, statistical analysis, and a description of the safeguards to protect the confidentiality of individuals on whom testing is performed; (5) quality assurance/quality control—provide a mechanism to ensure the quality of the data and the statistical and/or laboratory procedures used; (6) the proposed project schedule, including clearly established project objectives for which progress toward attainment can and will be measured, appropriate time lines for meeting those objectives, and a schedule of progress developed and reported to ATSDR; and (7) the proposed method of addressing any testing results which indicate exposure at levels of public health concern and plans to mitigate or prevent the exposure if identified.

b. *Program Personnel*—30%.

The extent to which the proposal has described the (1) qualifications, experience, and commitment of the principal investigator (or project director) and his/her ability to devote adequate time and effort to provide effective leadership; and (2) the competence of associates to accomplish the proposal, their commitment, and the time they will devote to the project.

c. *Applicant Capability—20%.*

Description of the adequacy and commitment of institutional resources to administer the program and the adequacy of the facilities as they impact on the performance of the investigation.

d. *Program Budget*—(not scored).

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of funds.

3. Review of Continuation Applications

Continuation awards within the project period will be made on the basis of the following criteria:

a. Satisfactory progress has been made in meeting project objectives;

b. Objectives for the new budget period are realistic, specific, and measurable;

c. Proposed changes in objectives, methods of operation, need for financial support, and/or evaluation procedures will lead to achievement of project objectives; and

d. The budget request is clearly justified and consistent with the intended use of Federal funds.

Funding Priorities

All applications will be given equal consideration. States will be selected for funding the new cooperative agreements using the following priorities:

1. States with 50 or more sites listed or proposed for listing on the NPL, excluding Federal facilities.

2. States with 30 to 49 sites listed or proposed for listing on the NPL, excluding Federal facilities.

3. States with fewer than 30 sites listed or proposed for listing on the NPL, excluding Federal facilities.

Applicants are requested to include in their application as an appendix the name and number of sites listed or proposed for listing on the NPL, excluding Federal facilities.

Executive Order 12372 Review

Applications are subject to the Intergovernmental Review of Federal Programs as governed by Executive Order 12372. E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contacts (SPOCs) as early as possible to alert them to the prospective applications and to receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC for each affected state. A current list of SPOCs is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Atlanta, Georgia 30305, no later than 60 days after the application deadline date. The granting agency does not guarantee to "accommodate or explain" state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.161.

Application Submission and Deadline

The original and two copies of application PHS Form 5161–1 should be submitted to Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, on or before July 1, 1992. (By formal agreement, the DCD Procurement and Grants Office will act for and on behalf of ATSDR on this matter.)

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.(a) or (b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management assistance may be obtained from Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office,Centers for Disease Control, 255 East paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, telephone (404) 842–6797. Programmatic technical assistance may be obtained from Richard Gillig, Chief, State Programs Section, Remedial Programs Branch, Division of Health Assessment and Consultation, Agency for toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0628.

Please refer to announcement number 227 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

Dated: June 10, 1992.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 92–14060 Filed 6–15–92; 8:45 am]

BILLING CODE 4160–70–M

Food and Drug Administration

Advisory Committee; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Anti-Infective Drugs Advisory Committee

Date, time, and place. July 10, 1992, 8:30 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, July 10, 1992, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 6 p.m.; Adele S. Seifried, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates data relating to the safety and effectiveness of marketed and investigational human drugs for use in infectious and ophthalmic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 1, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) new drug application (NDA) 20–250, Halfan® (halofantrine, SmithKline Beecham) for treatment of acute malaria, and (2) safety data relating to approved NDA 20–043, Omniflox (temafloxacin hydrochloride, Abbott Labs).

Radiological Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. July 14, 1992, 8:30 a.m., Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; Adrianne Galdi, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1050.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in

writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 30, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for an ultrasound contrast agent.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: June 11, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–14117 Filed 6–15–92; 8:45 a.m.]

BILLING CODE 4160–01–F

Health Care Financing Administration

[HSQ–201–N]

Medicare Program; Peer Review Organizations: Revised Scopes of Work for the District of Columbia, Puerto Rico, the Virgin Islands, and all States Except Delaware, Florida, Missouri, Montana, Nebraska, Nevada, Oklahoma, Rhode Island, South Carolina, Washington, and Wyoming

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This notice describes requirements for the review activities of Utilization and Quality Control Peer Review Organizations (PROs) under contract extensions of the Scope of Work for the District of Columbia, Puerto Rico, the Virgin Islands and all States except Delaware, Florida, Missouri, Montana, Nebraska, Nevada, Oklahoma, Rhode Island, South Carolina, Washington, and Wyoming. Section 1153(h)(1) of the Social Security Act requires us to publish any new policy or procedure adopted by the Secretary that affects substantially the performance of PRO contract obligations at least 30 days before the date the policy or procedure is to be used.

Specifically, this notice describes the way in which PRO contract requirements are changed and explains significant changes in the PRO program (e.g., the way in which cases will be selected for review) and also describes continuing requirements. This notice also implements provisions of the Omnibus Budget Reconciliation Act of 1990.

EFFECTIVE DATES: The effective dates of this notice are as follows:

For PROs in	On
Alaska, Arizona, California, District of Columbia, Georgia, Idaho, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, New Jersey, New Mexico, South Dakota and Vermont.	July 16, 1992.
Arkansas, Colorado, Illinois, Kansas, Mississippi, New Hampshire, Ohio, Oregon, Tennessee, Utah and West Virginia.	Oct. 1, 1992.
New York and Pennsylvania	Dec. 1, 1992.
Alabama, Connecticut, Iowa, Massachusetts, North Carolina, North Dakota, Puerto Rico, Texas, Virginia and Wisconsin.	Apr. 1, 1993.
Hawaii and the Virgin Islands	July 1, 1993.

ADDRESS: Allison Herron Eydt, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002, New Executive Bldg., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sandy Kappert, (410) 966–6890.

SUPPLEMENTARY INFORMATION:

I. Background

The Peer Review Improvement Act of 1982 (Title I, Subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248) established the Utilization and Quality Control Peer Review Organization (PRO) program. Section 1153, as modified by the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203), requires that the Secretary enter into contracts, which may be renewable on a triennial basis, with private peer review organizations for the review of services for which payment may be made in whole or in part by the Medicare program.

PROs review services furnished to Medicare beneficiaries to determine if the services meet professionally recognized standards of health care, are medically necessary and are delivered in the most appropriate setting. The first level of review of the beneficiary's medical record is performed by a nonphysician reviewer, using criteria and generic quality screens. If the case fails the criteria or screens, it is referred to a physician reviewer, who must be engaged in active practice and have active staff privileges in the PRO area. If, after review of the complete medical record, the PRO physician believes there might be a problem, the attending physician and provider are given an opportunity to discuss the case with the PRO.

The specific review obligations of PROs are outlined in a document known as the Scope of Work, which defines the duties and Medicare review functions performed by the PRO. Such duties and functions include the implementation and operation of a review system to ensure the quality of services for which payment may be made, in whole or in part, under title XVIII of the Social Security Act and to eliminate unreasonable, unnecessary, and inappropriate care provided to Medicare beneficiaries.

The First Scope of Work covered the 1984–1986 contract period. The Second Scope of Work was effective for the 1986–1988 contract period.

On September 12, 1988 (53 FR 35234), we published a notice in the **Federal Register** that announced the development of the Third Scope of Work for 48 States (that is, all States except New Jersey and Maryland), the District of Columbia, and Puerto Rico. A subsequent notice, published on March 1, 1989 (54 FR 8599), described the Third Scope of Work for Maryland, New Jersey, the Virgin Islands, and Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

On July 31, 1989 (54 FR 31576), we published a notice in the **Federal Register** stating that the area of American Samoa, Guam, and the Northern Mariana Islands and the area of Hawaii were redesignated as a single PRO area effective September 29, 1989. The PRO Scope of Work for Hawaii was revised at that time to reflect the change in area designation.

On September 4, 1991 (56 FR 43790), we published in the **Federal Register** a notice outlining the Scope of Work requirements for renewed PROs entering the fourth contracting cycle; that is, the States of Delaware, Missouri, Montana, Nebraska, New Jersey, Nevada, Oklahoma, Rhode Island, South Carolina, Washington, and Wyoming. (These were classified as Group I PROs because they were to be the first group of PROs to enter into contracts during the new contract cycle.) As a result of that notice, contracts were negotiated timely in all those States except New Jersey. Of the Group I PROs, Delaware, Missouri, Montana, Nebraska, Oklahoma, Rhode Island, Washington, and Wyoming will operate under the Scope of Work requirements specified in the September 4, 1991 **Federal Register** notice through September 30, 1994. The PRO contract in Nevada expires October 31, 1994 and in South Carolina on November 30, 1994. Additionally, PROs in Kentucky and Indiana began review under the Extension Scope of Work set forth in this notice when their contracts were negotiated and extended on March 1, 1992. These last two contracts will expire June 30, 1993.

All other PROs are operating under a Third Scope of Work not modified by the September 4, 1991 notice. Contracts have been extended beyond the original March 31, 1992 expiration dates in Alaska, Arizona, California, District of Columbia, Georgia, Idaho, Louisiana, Maine, Maryland, Michigan, Minnesota, New Mexico, South Dakota, and Vermont. These 14 PRO contracts, and the New Jersey PRO contract, have been extended through June 30, 1992 and are classified as Group II PROs.

In Arkansas, Colorado, Illinois, Kansas, Mississippi, New Hampshire, Ohio, Oregon, Tennessee, Utah, and West Virginia, PRO contracts are scheduled to end September 30, 1992. In New York and Pennsylvania, the PRO contracts are scheduled to expire November 30, 1992. (These 13 PROs are classified as Group III PROs.) Additionally, contracts for PROs in Alabama, Connecticut, Iowa, Massachusetts, North Carolina, North Dakota, Puerto Rico, Texas, Virginia, and Wisconsin expire March 31, 1993. The Virgin Islands and Hawaii PRO contracts are scheduled to expire June 30, 1993. (These 12 PROs are classified as Group IV PROs.)

Currently, PRO activities in Florida are conducted by Blue Cross/Blue Shield of Florida and, for HMO review, by the Alabama PRO and are not affected by this notice.

HCFA includes the Scope of Work requirements in its Request for Proposal (RFP), which is used by offerors to develop proposals to perform PRO review. Minor changes in the PRO Scope of Work requirements can be implemented during the contract negotiation process for individual States, or if new requirements are implemented after the contract is negotiated, the contract can be modified.

We plan to implement the provisions of the Extension Scope of Work in Group II PROs through a contract modification. Additionally, unless we publish a **Federal Register** Notice to the contrary, we will implement the provisions of this Extension Scope of Work through a contract modification for Group III and Group IV PROs. Although Blue Cross/Blue Shield of Florida is now conducting fee-for-service review activities in Florida and the Alabama PRO is conducting review of HMO/CMP activities in Florida, we plan to issue an RFP for a competitive procurement of the Florida PRO contract in the near future. At that time, we plan to implement the provisions of the Fourth Scope of Work. Also, we will implement the provisions of the Fourth Scope of Work in Group I PROs at a later date.

During the extension period, PRO review efforts will be gradually modified in anticipation of the requirements to be imposed in the Fourth Scope of Work, which will include the implementation of the Health Care Quality Improvement Initiative (HCQII). The HCQII activities will focus on the analysis of patterns and outcomes of care and providing feedback and education to the community. It is essential that data that PROs collect be based on consistent sampling methodologies, thus insuring reliable national data bases. To assure that consistency, HCFA will identify all cases for PRO review, while PROs will continue to perform medical review activites. The RFP for each PRO area will include the number of reviews included in the random sample identified by HCFA for the PRO to review during the period of its extension contract. HCFA will calculate the number of reviews each PRO will perform using historic hospital discharge data and the individual PRO's historical experience for non-hospital categories. We will recalculate these numbers as the PRO redirects its activities to those that support the new initiatives of pattern analysis and HCQII. During negotiation of an extension contract, HCFA and the PRO will agree on a plan to modify review levels; however, the PRO will maintain a continuing medical review responsibility.

II. Extension Scope of Work

Implementation of the Extension Scope of Work described herein will occur with the extension of a current contract.

This Scope of Work is the result of extensive analysis of the review

requirements and results achieved under the provisions of the Third Scope of Work. In an effort to achieve a more systematic and effective approach to utilization review and quality assurance in the Medicare program, we are redirecting PRO review activities. Where we have made changes, we have done so to create a more effective review system and to make more efficient use of PRO resources. For example, certain categories of cases are reviewed as they occur in the beneficiary-specific sample, rather than being identified as individual categories of cases selected for review because of their unqiue characteristics.

Additionally, HCFA is committed to the development of a systematic, computerized epidemiological and biostatistical analysis of large data bases to identify patterns of use and patterns of outcome. We believe that a program of eidemiologic surveillance and oversight is an efficient and effective approach to utilization review and quality assurance and will result in overall improvement in the care provided to Medicare beneficiaries. One of the essential roles PROs will play in this future review process will be analyzing the data derived from the new system of review. Further, the PROs will participate in increased education and feedback activity with the local medical community. Thus, the Extension Scope of Work offers PROs the opportunity to gain valuable data experience upon which future data analysis will be based.

Additionally, the Extension Scope of Work incorporates the provisions of Public Law 101–508, as described in section III of this notice.

An individual or organization interested in obtaining copies of the new Scope of Work should address requests to: Edward T. Hodges, Contracting Officer, Division of Health Standards Contracts, Office of Budget and Administration room G–M–1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

III. Implementation of Recent Legislation

The Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, enacted on November 5, 1990) contained several changes to the PRO legislation. Provisions of Public Law 101–508 that changed PRO requirements follow:

- Section 4205(a) amended section 1156(b)(1) of the Act to require that, before recommending a sanction to the Office of Inspector General (OIG), the PRO, if appropriate, allow the practitioner or other person a reasonable opportunity to enter into, and successfully complete, a corrective action plan, which may include remedial education.
- Section 4205(b) amended section 1154(b)(2) of the Act to require that PROs shall, to the extent necessary and appropriate, use the services of podiatrists and optometrists in the performance of their contracts.
- Section 4205(c)–(d) amended section 1154(a)(9) of the Act to require increased coordination and information sharing by PROs with Medicare carriers and State medical boards/licensing boards.
- Section 4205(e) amended section 1160(d) of the Act to clarify that no document or other information produced by the PRO in connection with its deliberations in making determinations about utilization or quality of care must be subject to subpoena or discovery in any administrative or civil proceedings.
- Section 4207(a) amended section 1867(d) of the Act to require the PRO, as requested by the Secretary, to review and report about alleged anti-dumping cases with regard to selected medical issues before sanctions can be imposed under section 1867(d)(1).

Accordingly, we made changes to the Scope of Work to implement these provisions.

IV. Specific Provisions of the Scope of Work

A. Continuing Requirements

The PRO must—

- Perform the following review activities on each case selected for retrospective review: quality, discharge, invasive procedure (if applicable), admission, and coverage review as well as diagnosis-related group (DRG) validation and, if the case is denied, application of the limitation of liability provisions.
- Maintain an internal quality control system that requires a sampling of the accuracy of nonphysician screening decisions and physician reviewer's work products. The structure of the Internal Quality Control requirements is similar to that required by the Third Scope of Work, but is less specific than the requirements of the September 4, 1991, **Federal Register** Notice.
- Meet certain organizational (for example, nonphysician consumer representation on its board) and eligibility requirements (that is, be a physician sponsored or physician access organization).
- Demonstrate that it meets certain other requirements, including that it is not a health care facility, an affiliate of a health care facility, or an association of such facilities, and that it can operate with complete independence and objectivity.
- Investigate beneficiary complaints about the quality of care and respond appropriately to the beneficiary (or his/her representative).
- When appropriate, initiate sanction recommendations to the OIG regarding practitioners and other persons.
- Coordinate the exchange of information with Medicare fiscal intermediaries (FIs) and carriers.
- Upon request, reconsider initial denial determinations and review DRG changes. When a hearing is requested, the PRO must prepare the appeals folder.
- Review the accuracy of hospital issued notices of noncoverage and perform review for the OIG as part of its investigation of possible areas of fraud and abuse. In addition, the PRO monitors all hospitals to ensure that the "Important Message from Medicare" notices are accurate and given in a timely fashion to all Medicare beneficiaries.
- Publish and distribute a report, not less often than annually, to providers and practitioners that describes the PRO's findings on types of cases in which the PRO has frequently determined that care or services were unnecessary, delivered in an inappropriate setting, or did not meet professionally recognized standards of care.
- Set dynamic objectives to correct identified problems when other required interventions (for example, as required under the Quality Intervention Plan (QIP)) fail to correct the problem. This allows PROs to focus review on validated utilization and quality problems not corrected through required interventions. The PRO must, however, clearly delineate to HCFA the relationship between productivity measures and the additional work effort; that is, the cost effectiveness associated with the additional level of effort.

B. Continuing Requirements With Some Amendment(s)

The PRO must continue to—

- Use HCFA's QIP, a prescribed blueprint that requires each PRO to implement specific interventions in response to certain thresholds of confirmed quality problems. The 3-level severity indexing system continues with the same point value for each level as in the prior Scope of Work (that is, Level I = 1 point, Levell II = 5 points, Level III = 25 points). Potential Level I cases are placed in a "pending" status until a threshold is met or exceeded. When that threshold is met or exceeded, the

physician and/or provider (that is, the source of the potential quality problem) is given an opportunity to discuss the issue with, and submit additional information (if any) to, the PRO. In response to objections from large hospitals and their physicians that they have the same numerical thresholds as small hospitals and their physicians for having cases come out of pending status, we have developed thresholds that recognize differences in case review volume and require that the PRO use these for determining when to review pended cases.

• Review a sample of discharges; however, the sample is identified by HCFA rather than by the PRO through random selection from Medicare claims files. Additionally, the sample is selected from both prospective payment system (PPS) and specialty hospital discharges, and the sample size may vary. Under the provisions of the Scope of Work announced in the September 4, 1991, **Federal Register** Notice, the sample size is 15 percent.

• Review day and cost outliers. When, as part of the review of the HCFA-selected sample cases, the PRO identifies one of these outliers (with reimbursed charges of $3,000 or more about the cost outlier threshold), the PRO will conduct and report its review as outlier review. However, it will no longer select for review a specific percent of cases from the universe of day and cost outliers.

• Perform length-of-stay review for a stay when specialty hospital care is included in a case selected as part of the sample cases. However, the PRO will no longer select a random sample of cases from specialized units in PPS hospitals and hospitals certified as being exempt from Medicare's PPS. (The Third Scope of Work required a 15 percent sample of specialty hospital care.)

• Review instances where the beneficiary also received intervening care services, was readmitted to a hospital within 31 days of a discharge, or was transferred. However, HCFA rather than the PRO, will identify for the PRO review cases involving these types of services, readmission, or transfer. The RPO will no longer specifically select cases for review simply because they are representative of transfer and readmission cases, or intervening care. (Intervening care is defined as care that takes place between hospital admissions occurring less than 31 days from each other, including emergency room services, observation services, continuing outpatient hospital services, covered skilled nursing facility stays, home health care, ambulatory surgery services.) The Third Scope of Work required that PROs select specified percentages of each hospital's transfer cases, readmissions within 31 days, and a sample of intervening care.

• Review 100 percent of all hospital adjustments submitted by the hospital to the FI that result in a higher weighted diagnosis related group (DRG); however, the review will be performed on a postpayment basis.

• Review a three percent facility-specific random sample of surgical procedures designated on HCFA's List of Covered Surgical Procedures for Ambulatory Surgical Centers. (Formerly a five percent sample was reviewed.) These surgeries are performed in ambulatory surgery centers and hospital outpatient areas. The universe of ambulatory surgery cases includes cataract surgeries that were previously reviewed under HCFA's requirement for 100 percent preadmission/preprocedure review of those procedures.

• Review for Medicare payment all cases for an assistant at surgery for the following cataract procedures: Current Procedural Terminology (CPT) codes 66852, 66920, 66940, 66984, and 66985. (Formerly, all assistants at cataract extractions or subsequent lens insertions required PRO prior approval. Public Law 101–508, however, mandated that payment for an assistant at cataract surgery could be made only when an assistant is used at a type of cataract surgery 5 percent or more of the time. The codes listed above are the only codes that meet the 5 percent requirement and thus are the only ones for which payment can be made. Accordingly, these are the only ones that will be subjected to PRO prior approval.)

• Identify all cases selected for review but not completed prior to a contract extension. The PRO is required to complete review of certain pending cases. Identified errors in these cases will not be included in the computation for intensified review.

• Enforce the requirements of intensified review whenever the quarterly error rate for utilization issues exceeds the allowable tolerance levels identified by HCFA (that is, five percent with a minimum of six cases); however, we amended the levels of review that the PRO initiates when intensification is triggered.

• Report data to HCFA on a regular basis; however, we have modified the data elements to be reported and the reporting of a PRO's financial information.

• Conduct a beneficiary outreach program that requires, at a minimum, that the PRO maintain a hotline for beneficiaries, provide educational programs and certain informational materials, and coordinate similar activities with other concerned organizations. Under the Third Scope of Work, the PRO was required to sponsor beneficiary meetings four time a year. We have reduced the requirement to twice a year but are encouraging PROs to increase the effectiveness of the meetings.

• Offer to meet with the medical and administrative staffs of hospitals. However, the requirement has been changed from quarterly to semiannually.

C. Requirements That Are Eliminated

Where review proved not to be efficient or effective nationwide, and is not statutorily mandated, the requirement for PRO review has been eliminated. Accordingly, the PRO will no longer perform these activities which were identified as being non-productive—

• Selection of any DRG-specific samples. Under the Third Scope of Work, PROs reviewed 25 percent of cases assigned to DRG 462 (Rehabilitation), 50 percent of those assigned to DRG 468 (Unrelated Operating Room Procedure), plus all cases grouping to DRGs 472 (Extensive Burns), 475 (Respiratory System Diagnosis with Ventilator Support), and 385–391 (Major Diagnostic Category 15—Newborns and other Neonates with Conditions Originating in the Prenatal Period). PROs will review these DRGs when they occur in the sample cases.

• Review 100 percent of the cases identified by the Medicare Code Editor. The Third Scope of Work requires this review. These cases, however, may appear as part of the beneficiary-specific sample.

• Perform preadmission/preprocedure review under a plan approved by HCFA. (The Third Scope of Work [as modified by Directed Change Order 91–13] allows PROs to propose preadmission/preprocedure review.)

• Perform profiling of data derived from PRO review, as described in the Third Scope of Work (except for compiling review results as required by the QIP and for calculation of error rates for intensified review). Although profiling activities have provided some useful information to HCFA and to PROs, we are replacing this requirement with an improved data analysis to compare how patterns of care or outcomes in one place or at one time may differ from patterns of care in other places or at other times. These analyses

will provide PROs with the analytical experience to allow a smoother transition to future evaluation of practice patterns and outcomes as described in the Scope of Work.

D. New Requirements

Under previous Scopes of Work, PROs received magnetic tapes from the FI that contained listings of all discharges for which claims were submitted to the FI. The PRO was required to select the cases it reviewed from those tapes.

We have changed the methodology for selecting cases for PRO review. The Scope of Work requires the PRO to review cases that have been identified by HCFA through a random sample; however, the PRO will continue to select cases for focused review. Accordingly, PROs will no longer be responsible for the initial identification of all cases to be reviewed. PROs are still required to review, on a preprocedure basis, requests for the use of the services of an assistant at cataract surgery.

The PRO reviews on a postpayment basis all inpatient hospital care rendered in the sample discharges identified by HCFA. For all discharges, the PRO must review all care provided in short term/acute care hospitals (i.e., PPS hospitals), as well as specialty hospitals and units exempt from PPS. The PRO will review incidences of readmission, intervening care or transfer that occur within the sample.

Additionally, the PRO is required to offer to meet with State hospital associations and medical societies at least quarterly to discuss, for example, review process issues and PRO findings. We believe that these interactions are vital to the success of a peer review program.

The most significant change is the implementation of new data analysis activities. PROs will begin the initial phase of analytic work to redirect the focus of the PRO program from individual case review to analysis of patterns of care and outcome. While PROs will continue to maintain case review responsibility, HCFA is committed to changing the strategy of systematic analysis of patterns of care and patterns of outcome in the context of national, State and local experience and trends. Ultimately, the data analysis should provide information vital to improving the quality of services provided to Medicare beneficiaries. The data analysis activities in this Scope of Work will provide PROs with experience they will need to proceed into the more advanced systematic analyses of the future.

Accordingly, in this Scope of Work, PROs will examine how patterns of care and of outcomes in one place or at one time differ from patterns of care and of outcomes in other places or at other times.

The PRO will compare the rates at which certain services are provided to patients with particular characteristics according to where and by whom they are treated and the rates at which different outcomes occur for patients with similar conditions according to where and by whom they are treated. HCFA will analyze outcomes using models which focus on long-term and short-term outcomes as well as the extent to which the risks of those outcomes change over time. PROs will derive data from the National Claims History File, the Medicare Hospital Information Release Mortality Analysis, and other analytic data sets developed by HCFA.

This program of determining variations of use and outcome by descriptive statistical analysis will provide a foundation for more sophisticated analytic work to be undertaken once the Uniform Clinical Data Set becomes available for use.

V. Information Collection Requirements

Provisions of this notice will be implemented by information collection requirements contained in revised PRO quarterly and monthly reporting forms. As required by section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504), these revised forms have been approved by the Office of Management and Budget (OMB) under control numbers 0938–0531 for HCFA forms 613 through 617 and 619 (PRO reporting forms) and 0938–0591 for HCFA forms 618 and 620 through 627 (cost reporting forms). Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the **"ADDRESSES"** section of the preamble.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance Program; and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: May 27, 1992.

William Toby,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 92–14034 Filed 6–15–92; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–110–6310–11–257A; G2–277]

Medford District Advisory Council; Meeting

June 5, 1992.

AGENCY: Bureau of Land Management, Medford District Office, Interior.

ACTION: Notice.

SUMMARY: This notice announces postponement of the Medford District Advisory Council meeting scheduled for June 25, 1992 at 8:30 a.m. at the Medford District Office, 3040 Biddle Road, Medford, Oregon. This notice is given in accordance with Public Law 99–463.

FOR FURTHER INFORMATION CONTACT: Kurt Austermann, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504; Telephone 503–770–2424.

SUPPLEMENTARY INFORMATION: The meeting will be rescheduled for a date to be announced.

David A. Jones,

District Manager.

[FR Doc. 92–14030 Filed 6–15–92; 8:45 am]

BILLING CODE 4310–33–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 6, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by July 1, 1992.

Carol D. Shull,

Chief of Registration, National Register.

CALIFORNIA

Los Angeles County

Hollywood Melrose Motel, 5150–70 Melrose Blvd., Los Angeles. 92000834

Seraight, Charles E., House, 4333 Emerald Ave., La Verne. 92000833

MASSACHUSETTS

Bristol County

Cadman-White-Handy House, 202 Hixbridge Rd., Westport. 92000831

MICHIGAN

Marquette County

Cliffs Shaft Mine, Euclid St between Lakeshore Dr. and Spruce St., Ishpeming. 92000832

NORTH CAROLINA

Halifax County

Tillery-fries House, SE side of NC 481, 0.3 mi N of jct. with NC 1117, Tillery vicinity. 92000830

TENNESSEE

Wayne County

Water Street Historic District, Water St. (TN 128) between Polk and Cedar Sts., Clifton. 92000829

[FR Doc. 92-13918 Filed 6-15-92; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-406-12]

Oscillating Fans From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) and scheduling of a public hearing in connection therewith.

SUMMARY: Following receipt of a petition filed on May 22, 1992, on behalf of Lasko Metal Products, Inc., West Chester, PA, the United States International Trade Commission instituted investigation No. TA-406-12 under section 406(a) of the Trade Act of 1974 to determine, with respect to imports from the People's Republic of China of oscillating table, floor, and wall fans, not for permanent installation, provided for in subheading 8414.51.00 of the Harmonized Tariff Schedule of the United States, whether market disruption exists with respect to an article produced by a domestic industry. Section 406(e)(2)(A) of the act states that market disruption exists within a domestic industry whenever "imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry." The Commission will make its determination in this investigation by August 24, 1992.

EFFECTIVE DATE: May 22, 1992.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202-205-3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Participation in the investigation and service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Hearing.—The Commission will hold a public hearing in connection with this investigation beginning at 9:30 a.m. on July 9, 1992, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 25, 1992. All persons desiring to appear at the hearings and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 29, 1992, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs in July 1, 1992. Parties may also file posthearing briefs. The deadline for filing posthearing briefs is July 17, 1992. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 17, 1992. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of § 201.6 of the rules.

In accordance with § 201.16(c) of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Remedy.—Parties are reminded that no separate hearing on the issue of remedy will be held. Those parties wishing to present arguments on the issue of remedy may do so orally at the hearing or in their prehearing or posthearing briefs or other written submissions.

Authority: This investigation is being conducted under the authority of section 406 of the Trade Act of 1974. This notice is published pursuant to section 206.3 of the Commission's rules.

By order of the Commission.

Issued: June 10, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-14119 Filed 6-15-92; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Connecticut State Standards; Approval

1. Background

Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan, which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On November 3, 1978, notice was published in the Federal Register (43 FR 51390) of the approval of the Connecticut Public Sector State Plan and the adoption of subpart E to part 1956 containing the decision.

The Connecticut Public Sector only State Plan provides for the adoption of Federal standards as State standards after:

a. Publishing an intent to amend the State Plan by adopting the standard(s) in the Connecticut Law Journal.

b. Approval by the Commissioner of Labor and the Attorney General of the State of Connecticut.

c. Approval by the Legislative Regulation Review Committee, State of Connecticut.

d. Filing in the Office of the Secretary of State, State of Connecticut.

e. Publishing a notice that the State Plan is amended by adopting the standard(s) in the Connecticut Law Journal.

The Connecticut Public Sector State Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6, of the Act. By letter dated February 21, 1992, from Commissioner Ronald F. Petronella, Connecticut Department of Labor, to John B. Miles, Jr., Regional Administrator, and incorporated as part of the plan, the State submitted updated State standards identical to 29 CFR parts 1910 and 1926 and subsequent amendments thereto, as described below:

(1) Revision to 29 CFR 1910, Electrical Safety-Related Work Practices; Final Rule, as contained in 55 FR 31984, dated 8/6/90.

(2) Correction to 29 CFR 1910, Electrical Safety-Related Work Practices; Final Rule, as contained in 55 FR 46052, dated 11/1/90.

(3) Correction and technical amendments to 29 CFR 1910, Control of Hazardous Energy Sources (Lockout/Tagout); Final Rule, as contained in 55 FR 38677, dated 9/20/90.

(4) Amendment to 29 CFR 1926, Concrete and Masonry Construction Safety Standards; Lift-Slab Construction Operations; Final Rule, as contained in 55 FR 42328, dated 10/18/90.

(5) Amendment to 29 CFR 1926, Safety Standards for Stairways and Ladders Used in the Construction Industry; Final Rule, as contained in 55 FR 47687, dated 11/14/90.

(6) Correction to 29 CFR 1926, Safety Standards for Stairways and Ladders Used in the Construction Industry, as contained in 56 FR 2585, dated 1/23/91.

(7) Correction to 29 CFR 1910, Hazardous Waste Operations and Emergency Response; Final Rule, as contained in 56 FR 15832, dated 4/18/91.

(8) Correction to 29 CFR 1910, Occupational Exposure to Lead; Final Rule, as contained in 56 FR 25686 dated 5/31/91.

These standards became effective on November 29, 1991, and December 30, 1991, pursuant to section 31–372 of State Law.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State Standards are identical to the Federal standards and accordingly are approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 133 Portland Street, Boston, Massachusetts, 02114; Office of the Commissioner, State of Connecticut, Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, and the OSHA Office of State Programs, room N–3476, Third Street and Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Connecticut Public Sector Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

1. The standards were adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious.

This decision is effective June 16, 1992.

Authority: Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Boston, Massachusetts, this 22nd day of May 1992.

John B. Miles, Jr.,

Regional Administrator.

[FR Doc. 92–14096 Filed 6–15–92; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92–37]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by July 16, 1992. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Mr. D.A. Gerstner, NASA Agency Clearance Officer, Code JTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project 2700–XXXX), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453–9897.

Reports

Title: NASA FAR Supplement, Parts 18–19, Small Business and Small Disadvantaged Business Concerns and Related Contract Provisions.

OMB Number: New.

Type of Request: Regular Submission.

Frequency of Report: 3 times yearly.

Type of Respondent: Businesses or other for-profit, non-profit institutions, Small businesses or organizations.

Number of Respondents: 185.

Responses per Respondent: 3.

Annual Responses: 555.

Hours per Response: 16.21.

Annual Burden Hours: 8,997.

Abstract-Need/Uses: NASA requires more frequent reporting of Small Disadvantaged Business subcontract awards in order to more effectively manage its Congressionally mandated 8% goal.

Dated: June 8, 1992.

D.A. Gerstner,

Chief, IRM Policy and Acquisition Management Office.

[FR Doc. 92–14089 Filed 6–15–92; 8:45 am]

BILLING CODE 7510–01–M

[Notice 92–38]

NASA Advisory Council (NAC), Aerospace Medicine Advisory Committee (AMAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the

NAC Aerospace Medicine Advisory Committee.

DATES: June 22, 1992, 8 a.m. to 5 p.m.; June 23, 1992, 8 a.m. to 5 p.m.; and June 24, 1992, 8 a.m. to 3 p.m.

ADDRESSES: National Aeronautics and Space Administration, room 226, 600 Independence Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. J. Richard Keefe, Code SB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1530).

SUPPLEMENTARY INFORMATION: The Aerospace Medicine Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range planning of aerospace medicine research. The Committee will meet to discuss the status of the NAC AMAC Executive Report, medical support requirements in NASA, the Biomedical Monitoring and Countermeasures (BMAC) program, science and technology for human presence, and Space Station operational medicine planning. The Committee is chaired by Dr. Harry C. Holloway and is composed of 22 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda:

Monday, June 22
- 8 a.m.—Introduction and Chairman's Remarks.
- 8:15 a.m.—Status of Life Sciences Division.
- 10:30 a.m.—NAC/AMAC Executive Report Status and Actions.
- 1 p.m.—Medical Support Requirements in NASA.
- 3:15 p.m.—Status of BMAC Planning.
- 5 p.m.—Adjourn.

Tuesday, June 23
- 8 a.m.—Agenda Review and Announcements.
- 8:15 a.m.—Status of OSSA Roles and Missions.
- 10:15 a.m.—Science and Technology for Human Presence.
- 1 p.m.—Space Station Operational Medicine Planning.
- 3 p.m.—Status of Radiation Health Program.
- 4:30 p.m.—Committee Discussion.
- 5 p.m.—Adjourn.

Wednesday, June 24
- 8 a.m.—Agenda Review and Announcements.
- 8:15 a.m.—Status of Space Physiology and Countermeasures Program.
- 10:15 a.m.—Status of Recent Biomedical Studies.
- 1 p.m.—Discussion of Committee Executive Report Actions.
- 2:15 p.m.—Discussion of Action Items and Report Development.
- 3 p.m.—Adjourn.

Dated: June 10, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-14090 Filed 6-15-92; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON AMERICA'S URBAN FAMILIES

Meeting

Notice is hereby given, pursuant to Public Law 92-463, that the National Commission on America's Urban Families will hold a roundtable meeting in Minneapolis, Minnesota on Tuesday, July 7, 1992. For exact time and location of the meeting, please contact the Commission two days prior to the event at 202-245-6462.

The purpose of the meeting is to enable invited participants to express their views on the condition of America's urban families and inform the Commission about programs and approaches that work to strengthen families.

Records shall be kept of all Commission proceedings and shall be available for public inspection at 200 Independence Avenue, SW., room 305-F, Washington, DC 20201.

Anna Kondratas,

Executive Director.

[FR Doc. 92-14035 Filed 6-15-92; 8:45 am]

BILLING CODE 4150-04-M

NUCLEAR REGULATORY COMMISSION

Commonwealth Edison Co.; Byron Station, Unit Nos. 1 and 2; Braidwood Station, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF-37 and NPF-66, issued to Commonwealth Edison Company (CECo, the licensee), for operation of the Byron Station, Unit Nos. 1 and 2, located in Ogle County, Illinois, and Facility Operating License Nos. NPF-72 and NPF-77, issued to the licensee, for operation of the Braidwood Station, Unit Nos. 1 and 2, located in Will County, Illinois.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would allow the discontinuance of performing the venting surveillance required by Technical Specification (TS) 4.5.2 for Emergency Core Cooling System (ECCS) piping inside containment. TS 4.5.2 currently states, in part, that each ECCS subsystem shall be demonstrated operable, at least once per 31 days, by verifying that the ECCS piping is full of water by venting the ECCS pump casings and accessible discharge piping high points.

The proposed action is in accordance with the licensee's request dated March 17, 1989, as supplemented by letters dated August 25, 1989, March 12, 1990, and June 10, 1991.

The Need for the Proposed Action

The proposed amendment to TS 4.5.2 clarifies which ECCS piping vent valve locations require venting by stating that only venting of the ECCS pump casings and the discharge piping high points outside of containment will be performed at least once per 31 days. This change discontinues the requirement to perform venting surveillances at the seven (7) high point vent valve locations inside containment in Unit 1 at the Byron and Braidwood Stations. (These valves are not installed inside Unit 2 at each station.) This proposed change will reduce substantial radiation exposure to those individuals who would otherwise be performing the surveillance inside containment while the reactor is at power. This reduction in radiation exposure is in accordance with as low as reasonably achievable (ALARA) guidelines while maintaining the intended safety function of the ECCS equipment.

The operational experience of venting ECCS discharge lines at Unit 1 of Byron and Braidwood Stations indicated insignificant or nil amount of air in those pipes. Venting performed at least once per 31 days on the suction side of the ECCS pumps, at the pump casings, and at the discharge piping high points located outside of containment has provided sufficient venting to remove any entrapped air in the ECCS system. Also, CECo's engineering analysis has determined that in the unlikely event of an air void entering the discharge side of the ECCS pumps, the piping has the capability to withstand a water hammer event caused by the maximum credible air void. This was reviewed and found acceptable by the staff.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TS and concludes that the proposed changes would not change the types, or allow an increase in the amounts, of effluents that may be released offsite. Now would they result in an increase in individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed change to the TS involves a modification to the existing surveillance requirements for venting of ECCS discharge piping. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for Byron Station, Unit Nos. 1 and 2, dated April 1982, and for Braidwood Station, Unit Nos. 1 and 2, dated June 1984.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated March 17, 1989, and supplements dated August 25, 1989, March 12, 1990, and June 10, 1991, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481. Dated at Rockville, Maryland, this 4th day of June 1992.

For the Nuclear Regulatory Commission.

Richard J. Barrett,

Director, Project Directorate III–2, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92–14116 Filed 6–15–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–483]

Union Electric Co.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Union Electric Company (the licensee) for an amendment to Facility Operating License No. NPF–30 issued to the licensee for operation of the Callaway Nuclear Power Plant, Unit 1, located in Fulton, Missouri. A Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Determination and Opportunity for Hearing was published in the **Federal Register** on January 22, 1992 (57 FR 2602).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to allow entry into Modes 2 or 1 without applying the provisions of Specification 4.0.4 for "Reactor Trip System Instrumentation Surveillance Requirements" and to allow entry into Modes 3, 2, or 1 without applying the provisions of specification 4.0.4. for "Engineered Safety Features Actuation System Instrumentation Surveillance Requirements."

The NRC Staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed changed by letter dated June 8, 1992.

By July 16, 1992, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, and to Gerald Charnoff, Esquire, and Thomas A. Baxter, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney of the licensee.

For further details with respect to this action, see (1) the application for amendment dated August 7, 1991, and the letter to the licensee dated June 8, 1992.

These documents are available for public inspection at the Commission's Public Document Room and the Callaway Country Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevard, St. Louis, Missouri 63130. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 8th day of June 1992.

For the Nuclear Regulatory Commission.

Richard L. Emch, Jr.,

Acting Director, Project Directorate III–3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92–14115 Filed 6–15–92; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under schedules A and B, and placed under schedule C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Stephen H. Perloff, (202) 606–0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on May 18, 1992 (57 FR 21139). Individual authorities established or

revoked under schedules A and B and established under schedule C between April 1 and April 30, 1992, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30, 1992.

Schedule A

No Schedule A authorities were established or revoked during April.

Schedule B

No Schedule B authorities were established or revoked during April.

Schedule C

Action

One Special Assistant to the Deputy Director. Effective April 14, 1992.

Department of Agriculture

One Staff Assistant to the Director, Publishing and Visual Communications, Office of Public Affairs. Effective April 6, 1992.

One Confidential Assistant to the Administrator, Farmers Home Administration. Effective April 16, 1992.

Two Confidential Assistants to the Administrator, Food and Nutrition Service. Effective April 17, 1992.

One Staff Assistant to the Manager, Federal Crop Insurance Corporation. Effective April 21, 1992.

Agency for International Development

One Special Assistant to the Assistant Administrator, Bureau of Europe. Effective April 6, 1992.

One Writer-Editor to the Director, Office of External Affairs. Effective April 17, 1992.

One Public Affairs Specialist to the Chief, Public Liaison Division, Office of External Affairs. Effective April 17, 1992.

One Public Affairs Specialist to the Chief, Public Liaison Division, Office of External Affairs. Effective April 27, 1992.

Department of Commerce

One Special Assistant to the Deputy Assistant Secretary for Program Support, Economic Development Administration. Effective April 6, 1992.

One Director of Congressional Affairs to the Assistant Secretary and Commissioner of the Patent and Trademark Office. Effective April 17, 1992.

One Special Assistant to the General Counsel, National Oceanic and Atmospheric Administration. Effective April 27, 1992.

Department of Defense

One Personal and Confidential Assistant to the Director of Research and Engineering. Effective April 6, 1992.

One Principal Director for Drug Enforcement Policy to the Deputy Assistant Secretary. Effective April 6, 1992.

One Private Secretary to the Principal Deputy General Counsel. Effective April 6, 1992.

One Law Clerk to the Judge, U.S. Court of Military Appeals. Effective April 22, 1992.

One Special Assistant for Family Advocacy and External Relations to the Deputy Assistant Secretary of Defense (Prisoner of War/Missing in Action Affairs). Effective April 27, 1992.

Department of Education

One Special Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective April 3, 1992.

One Special Assistant to the Assistant Secretary, Office of Management and Budget/Chief Financial Officer. Effective April 14, 1992.

One Confidential Assistant to the Director, Scheduling and Briefing Staff. Effective April 16, 1992.

One Special Assistant to the Director of Communications/Counselor to the Secretary. Effective April 16, 1992.

One Special Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective April 16, 1992.

One Confidential Assistant to the Deputy Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective April 20, 1992.

One Confidential Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective April 24, 1992.

Two Special Assistants to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective April 24, 1992.

Department of Energy

One Staff Assistant to the Principal Associate Deputy Under Secretary for Policy, Planning and Analysis. Effective April 7, 1992.

One Staff Assistant to the Director, Office of Special Projects. Effective April 7, 1992.

Evironmental Protection Agency

One Director, Regional Operations Division, to the Associate Administrator for Regional Operations and State/Local Relations. Effective April 7, 1992.

Federal Emergency Management Agency

One Confidential Assistant to the Assistant Associate Director for Public Affairs. Effective April 17, 1992.

General Services Administration

One Special Assistant to the Commissioner, Information Resources Management Service. Effective April 6, 1992.

Department of Health and Human Services

One Special Assistant to the Deputy Director. Effective April 6, 1992.

One Director of Speechwriting to the Deputy Assistant Secretary for Public Affairs (Media). Effective April 6, 1992.

One Special Assistant to the Director of Communications, Office of the Deputy Assistant Secretary for Public Affairs (Policy and Communication). Effective April 14, 1992.

One Special Assistant to the Commissioner, Social Security Administration. Effective April 14, 1992.

One Legislative Liaison to the Associate Commissioner, Office of Legislation and Congressional Affairs, Office of Policy and External Affairs, Social Security Administration. Effective April 27, 1992.

Department of Housing and Urban Development

One Deputy to the General Counsel. Effective April 3, 1992.

One Staff Assistant to the Deputy Assistant Secretary for Executive Services. Effective April 3, 1992.

One Special Assistant to the Assistant Secretary, Office of Public Affairs. Effective April 6, 1992.

One Special Assistant to the Assistant Secretary for Community Planning and Development. Effective April 17, 1992.

One Director, Health Care Staff, to the Associate General Deputy Assistant Secretary for Housing—Federal Housing Commissioner. Effective April 22, 1992.

One Deputy Assistant to the Assistant Secretary for Public Affairs. Effective April 22, 1992.

One Program Policy Advisor to the Deputy Assistant Secretary for Policy Development. Effective April 22, 1992.

One Confidential Assistant to the Chairman. Effective April 22, 1992.

One Special Assistant to the Assistant to the Secretary and Director, External Affairs. Effective April 22, 1992.

International Trade Commission

One Staff Assistant to the Chairman. Effective April 27, 1992.

Department of Justice

One Special Assistant to the Associate Attorney General. Effective April 6, 1992.

One Confidential Assistant to the Assistant Attorney General, Office of Legal Counsel. Effective April 27, 1992.

One Deputy to the Director, Office of Policy and Communications. Effective April 27, 1992.

Department of Labor

One Assistant to the Secretary's Representative, Office of Congressional and Intergovernmental Affairs, San Francisco, California. Effective April 3 1992.

One Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration. Effective April 6 1992.

One Staff Assistant to the Assistant Secretary, Occupational Health Safety and Health Administration. Effective April 14, 1992.

Office of National Drug Control Policy

One Legislative Assistant to the Director of Congressional Relations. Effective April 3, 1992.

Two Special Assistants (Regional Liaison) to the Special Assistant, Regional Coordinator, Bureau of State and Local Affairs. Effective April 14, 1992.

One Special Assistant (Regional Liaison) to the Special Assistant, Regional Coordinator, Bureau of State and Local Affairs. Effective April 27, 1992.

Occupational Safety and Health Review Commission

One Confidential Assistant to a Member (Commissioner). Effective April 27, 1992.

Small Business Administration

One Special Assistant to the Deputy to the Associate Deputy Administrator for Management and Administration. Effective April 6, 1992.

One Special Assistant to the Counselor to the Administrator. Effective April 6, 1992.

One Region IV Special Assistant to the Regional Administrator, Dallas, TX. Effective April 27, 1992.

Department of State

One Foreign Affairs Officer to the Ambassador-at-Large for Non-Proliferation Policy and Nuclear Energy Affairs. Effective April 3, 1992.

Department of the Treasury

One Staff Assistant to the Assistant Secretary for Policy Management. Effective April 3, 1992.

One Special Assistant to the Assistant Secretary (Public Affairs and Public Liaison). Effective April 3, 1992.

One Special Assistant to the Assistant Secretary (International Affairs). Effective April 9, 1992.

One Confidential Assistant to the Commissioner, Internal Revenue Service. Effective April 27, 1992.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954—1958 Comp., P.218.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92-14004 Filed 6-15-92; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-18764/File No. 811-4266]

LifeFund Account

June 8, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: LifeFund Account (the "Applicant").

RELEVANT 1940 ACT SECTIONS: Application filed pursuant to section 8(f) of the 1940 Act and Rule 8f-1 thereunder.

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The applicant was filed on March 20, 1992, and amended on June 3, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 6, 1992, and should be accompanied by proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Mr. Al W. Kennon, Jr., Southwestern Life Insurance Company, 500 North Akard, Dallas, Texas 75201.

FOR FURTHER INFORMATION CONTACT: Patricia M. Pitts, Attorney, at (202) 272-3040, or Michael V. Wible, Special Counsel, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Applicant was originally established by Southwestern Life Insurance Company ("Southwestern") as a separate account pursuant to the insurance laws of the state of Texas on March 13, 1985. There has been no change in Applicant's legal status under Texas law.

2. On March 21, 1985, the Applicant registered under the 1940 Act as a unit investment trust. On that same date, the Applicant filed a registration statement registering an indefinite number of securities under the Securities Act of 1933. The registration statement became effective on January 9, 1986 and the definitive prospectus, pursuant to which the initial public offering was made, was filed on February 24, 1986.

3. On January 25, 1991, a letter was sent by Southwestern to all of Applicant's policyowners extending an offer to surrender their variable universal life policies in return for any one of three specified payment options. The offer was made contingent upon all outstanding policyowners accepting it not later than February 15, 1991 (the "Initial Acceptance Date"). Briefly, the offer consisted of the opportunity for the policyowners to exchange their policies for a dollar amount equal in each case to the net asset value of their respective policies as of a specified date, increased by ten percent ("Enhanced Value"). The Enhanced Value would be paid, at the option of each policyowner, in the form of either: (1) A non-variable universal life insurance policy to be issued by Southwestern; (2) a fixed annuity contract to be issued by Southwestern; or (3) cash. Southwestern extended the date for receipt of the documents by policyowners accepting the offer until March 15, 1991. All policyowners accepted the offer and, by March 22, 1991, Applicant had distributed all of its

net assets to policyowners. No contingent deferred sales charge, redemption fee, or other fee was imposed in connection with the exchange transaction.

4. The portfolio securities of the Applicant were shares of Neuberger & Berman Advisers Management Trust ("AMT"), an open-end diversified management investment company registered under the 1940 Act. The Applicant redeemed its shares of AMT at net asset value which was next computed after receipt by AMT of the redemption request.

5. The value initially paid or credited to the new policies pursuant to Applicant's liquidation procedure were the values as of the Initial Acceptance Date. At various times between the Initial Acceptance Date and March 22, 1991, however, the account values of certain of Applicant's subaccounts increased. the difference between the values originally applied or credited and such subsequent higher values, plus interest, was paid to the affected policyowners. The shortfall between each policyowner's proportionate share of Applicant's net asset value and the amount he or she ultimately received was provided by Southwestern from its general account assets.

6. Expenses of the Applicant and/or Southwestern incurred in connection with the liquidation of Applicant have been borne by Southwestern. There were no brokerage fees incurred in connection with the liquidation.

7. The Applicant has no assets, liabilities or policyowners. The Applicant has not transferred any of its assets to a separate trust.

8. The Applicant is not party to any litigation or administrative proceedings (other than this deregistration proceeding).

9. The Applicant is not now engaged, nor does it intend to engage, in any business activity other than that necessary for the winding-up of its affairs. Applicant has made all required filings of Form N–SAR, and Applicant represents that it will continue to make such filings as required until such time as the Commission issues an order granting deregistration of the Applicant under the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–14093 Filed 6–15–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25554; International Series Release No. 398]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

June 12, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 1, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or other issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

PSI Resources, Inc. (70–7964)

PSI Resources, Inc. ("PSI"), an Indiana public-utility holding company exempt from registration under section 3(a)(1) of the Act pursuant to rule 2, and PSI Energy, Inc. ("PSI Energy"), its wholly owned public-utility subsidiary company, both of 1000 East Main Street, Plainfield, Indiana 46168 ("Applicants"), have filed an application in connection with the proposed acquisition of an interest in a newly-formed Argentine electric public-utility company ("Target"). Applicants request an unqualified order of exemption pursuant to section 3(b) of the Act for PSI Energy Argentina, Inc. ("Energy Argentina"), a newly-formed, wholly owned Indiana subsidiary of PSI Energy, Investor Co., a to-be-formed partially owned subsidiary of Energy Argentina, and Target. Alternatively, Applicants request an order of the Commission under sections 9(a)(2) and 10, approving the proposed acquisition of an interest in Target, and granting exemptions under section 3(a)(5) from all provisions of the Act except section 9(a)(2) to Energy Argentina and Investor Co.

PSI Energy generates, transmits and sells electric power in Indiana. PSI Energy and PSI reported operating revenues of approximately $1.1198 billion and $1.1223 billion, respectively, in 1991.

PSI intends to participate in an international consortium ("Consortium") that will bid to acquire 51% of the voting securities of either of two newly-formed Argentine electric-utility companies, Edenor, S.A. and Edesur, S.A. ("Targets"), that own and operate transmission and distribution systems in the City of Buenos Aires and the surrounding area.[1] The Argentine government currently owns 100% of each Target and has called for public tenders to sell a majority (51%) of the shares to private owners. It is contemplated that up to 39% of the remaining shares will be sold by the Argentine government to Argentine investors through a public offering on the Argentine stock exchange, and 10% will be held by Target employees.

If the bid made by the Consortium is successful, the members of the Consortium intend to form Investor Co. to acquire the 51% ownership interest in Target. Energy Argentina will hold from 4.99 to 10% of Investor Co. and will have the right to elect one of its twelve directors.[2] In addition, Energy Argentina will operate Target.

Although the actual amount of PSI's investment will not be determined until a formal bid is made, the application states that PSI will not invest more than approximately $20 million. PSI intends to fund its portion of the Target acquisition through the issuances of long-term debt. PSI represents that: (1) No funds will be provided by PSI Energy; (2) neither PSI nor PSI Energy will assume any of Target's liabilities; and (3) only a small number of employees will be involved in providing services to Target and none of PSI's or PSI Energy's senior management will be assigned on a full-time or long-term basis to such tasks. To the extent that employees of PSI Energy provide any services in connection with the Argentine operations, PSI Energy will charge for such services based upon accounting procedures already in place

[1] Participants in the public tender process are permitted to bid on both Targets, but may acquire the voting securities of only one Target.

[2] The application states that Entergy Corporation, a registered public-utility holding company, has the option to acquire up to 10% of Investor Co.

and subject to review by the Indiana Utility Regulatory Commission ("IURC").

As a result of the acquisition of Target, Investor Co., Energy Argentina, PSI Energy, and PSI will each be a "holding company" within the meaning of section 2(a)(7) with respect to Target, and Target will be a direct or indirect "subsidiary company" of each within the meaning of section 2(a)(8). Energy Argentina will also be an "electric utility company" within the meaning of section 2(a)(3) because it will operate Target.

Applicants request orders of exemption under section 3(b) for Target, Investor Co. and Energy Argentina. The application states that none of Target, Investor Co. or Energy Argentina will derive a material part of its income, directly or indirectly, from sources within the United States, and will not operate, or have any subsidiary company that operates, as a public-utility company in the United States. The application also states that, if unqualified exemptions are granted, Investor Co., Energy Argentina and PSI Energy will rely upon rule 10(a)(1) to provide an exemption insofar as each is a holding company; and Energy Argentina, PSI Energy and PSI will rely on rule 11(b)(1) to provide an exemption from the approval requirements of sections 9(a)(2) and 10 to which they would otherwise be subject.

If unqualified orders of exemption are not granted, Applicants request authorization under sections 9(a)(2) and 10 to organize and acquire Energy Argentina; to participate in the organization and acquisition of up to a 10% interest in Investor Co. through Energy Argentina; and to acquire up to a 5.1% interest in Target through Investor Co. Applicants also request orders under section 3(a)(5) exempting Energy Argentina and Investor Co. from all provisions of the Act, except section 9(a)(2).

The Applicants estimate, based on a 5.1% interest in Target's revenues for 1990, that PSI's pro forma share of such revenues would be approximately $30.6 million (or less than 3% of PSI's consolidated revenues in 1991). PSI anticipates that Energy Argentina will receive less than $1 million per year for its services as operator of Target, which amount will not significantly change the above calculation. PSI states that it will continue to qualify as an exempt holding company under section 3(a)(1) after the acquisition.

While the current structure of the proposed transaction calls for the involvement of four levels of holding companies (PSI, PSI Energy, Energy Argentina and Investor Co.), Applicants expect that, upon completion of regulatory and judicial proceedings related to the formation of PSI, only three holding companies will remain in the PSI chain of ownership. Applicants have informed the IURC of the proposed transactions and have provided a letter from the IURC stating that the proposed activities do not require its prior approval.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-14275 Filed 6-15-92; 4:24 pm]

BILLING CODE 8010-01-M

[Release No. IC-18765; International Series Rel. No. 397; 812-7914]

Tasmanian Public Finance Corporation; Application

June 8, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Tasmanian Public Finance Corporation.

RELEVANT 1940 ACT SECTION: Exemption requested under section 6(c) from all provisions of the 1940 Act.

SUMMARY OF APPLICATION: Applicant, a statutory corporation established by the State of Tasmania, Commonwealth of Australia, seeks an order exempting it from all provisions of the 1940 Act in connection with the offer and sale of its debt securities in the United States.

FILING DATE: The application was filed on May 6, 1992. Applicant has undertaken to file an amendment to its application during the notice period. The representations and conditions contained in the amendment will conform to those in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 1, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Jeffrey F. Browne, Esq., Sullivan & Cromwell, 125 Broad Street, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Special Counsel, at (202) 504-2259, or Barry D. Miller, Senior Special Counsel, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a statutory corporation of the State of Tasmania ("Tasmania"), Commonwealth of Australia. It was established by the Tasmanian Public Finance Corporation Act 1985 of Tasmania (the "Public Finance Corporation Act") principally to borrow in both the Australian and international capital markets and lend to the Government of Tasmania and certain public authorities, including semi-governmental and local authorities in Tasmania and other entities designated by regulations made on the recommendation of the Treasurer of Tasmania ("Participating Authorities").

2. Applicant also is empowered to arrange borrowings as agent for Participating Authorities, issue its securities in exchange for securities that have previously been issued directly by Participating Authorities, invest funds, accept funds for investment from the State and Participating Authorities, and provide or arrange other financial services for Participating Authorities. All investments by applicant are made in accordance with a "Risk Management Policy" that imposes strict limits on the manner in which its funds may be invested, with respect to both the nature of the investment and the creditworthiness of the counterparty. To date, applicant's principal activities have been, and are presently intended to continue to be, borrowing moneys as principal and lending the proceeds to Participating Authorities. Of applicant's A$3.3 billion of assets at June 30, 1991, 66% consisted of advances to Participating Authorities, 8% consisted of funds invested on behalf of Participating Authorities, 22% consisted of advances to applicant's wholly-owned subsidiary The Finance Trust of Tasmania Limited ("FINTAS"), and 4%

consisted of property, plant and equipment, and other assets.

3. FINTAS was established in 1989 to facilitate the issuance and debt management strategies of applicant and to act as a liquidity buffer. In seeking to discharge its objective of ensuring the availability of funds to the lowest possible cost to Participating Authorities, applicant attempts to ensure that the needs of investors in its securities are met. To satisfy these investor needs, applicant may issue securities at times and in volumes that are not compatible with the immediate needs of the Participating Authorities. On such occasions some or all of the funds raised will be directed to FINTAS for subsequent reinvestment. Funds advanced to FINTAS may be invested in securities issued by borrowers with a Standard & Poor's rating of at least A–1 (long term) or A–2 (short term) or equivalent Moody's Investors Service ratings, securities guaranteed by the Commonwealth or a State Government, or debt securities issued by applicant. FINTAS acts as a liquidity buffer in that, should the financial markets be closed to applicant for any reason or should funds not be available at attractive rates, applicant is able to generate the necessary funding through liquidation of FINTAS assets. FINTAS also provides secondary market support to securities issued by applicant by the purchase (when demand is low) and resale (when demand is high) of those securities.

4. Under section 5 of the Public Finance Corporation Act, applicant consists of the following four members: (1) The Secretary of the Department of Treasury and Finance, who acts as chairman; (2) two persons who are commissioners of, or employed in a permanent capacity by, the Hydro-Electric Commission, appointed by the Governor, upon the nomination of the Treasurer; and (3) one director, associate director, or officer of the Tasmanian Development Authority, appointed by the Governor, upon the nomination of the Treasurer. The four members determine the policy of, and give directions to, the chief executive of applicant in connection with the management of the affairs of applicant. Although applicant has delegated authority to make its own day-to-day operating decisions, these decisions must serve to carry out government policy. No equity in applicant has been sold, and there is neither a provision in the Public Finance Corporation Act permitting the sale of equity in applicant nor a present intention to amend the Public Finance Corporation Act to permit the sale of equity in applicant.

5. Applicant proposes, from time to time in the future, to offer and sell unsecured debt securities in the United States ("Debt Securities"). The payment of principal of, and any interest or premium on, the Debt Securities issued by applicant will be unconditionally guaranteed by Tasmania pursuant to section 7 of the Public Authorities (Overseas Borrowing) Act 1979 (the "Public Authorities Act"). There is no requirement that legal proceedings be commenced against applicant prior to making a demand against or, if necessary, taking proceedings against Tasmania in respect of section 7.

6. Applicant complies with the arrangements that govern borrowings by the Commonwealth of Australia and the Australian States. Pursuant to these arrangements, Tasmania, in common with the other Australian States, is not permitted to issue its own long-term debt instruments without the approval of the Australian Loan Council,[1] although it may guarantee the debt of its authorities, such as applicant. Applicant will promptly on-lend [2] to Participating Authorities substantially all of the proceeds of any offering of Debt Securities.

Applicant's Legal Analysis

1. At June 30, 1991, 66% of applicant's assets consisted of obligations of the Participating Authorities to repay loans made to them by applicant and 22% consisted of advances to applicant's wholly-owned subsidiary, FINTAS. These obligations could be deemed to be "investment securities" within the meaning of section 3(a)(3) of the 1940 Act. As a result, applicant may be deemed to be an "investment company" under the 1940 Act. In order to ensure that applicant will be entitled, without registration under the 1940 Act, to issue and sell its Debt Securities in the manner contemplated, applicant is seeking an exemption pursuant to section 6(c) of the 1940 Act.

2. Applicant believes that granting the exemption requested would be appropriate in the public interest. It would expand the United States market for applicant's securities and thus further the policy of the United States to encourage the free flow of capital among nations.

3. Applicant further believes that granting the exemption requested would be consistent with the protection of investors. The payment of the principal of, and any premium or interest on, the Debt Securities will be unconditionally guaranteed by Tasmania. As a result, the Debt Securities will be backed by the sovereign credit of Tasmania and not merely the credit and assets of applicant.

4. Finally, applicant believes an exemption would be consistent with the purposes fairly intended by the policy and provisions of the 1940 Act. Applicant is a governmental central borrowing authority with characteristics different from the types of investment companies at which the 1940 Act was generally directed and for which its substantive provisions are necessary or suitable.

Applicant's Conditions

Applicant agrees that the order of the SEC granting the requested relief shall be subject to the following conditions:

1. No Debt Securities will be offered or sold unless (a) they are registered under the Securities Act of 1933 (the "1933 Act") or (b) in the opinion of United States counsel for applicant an exemption from registration under the 1933 Act is available with respect to such offer and sale.

2. All borrowings by applicant, including the issuance of Debt Securities by applicant, will be effected in accordance with the provisions of the Public Finance Corporation Act. All investments of applicant's funds, including temporary investments of funds to be on-lent to Participating Authorities, will be made by applicant in accordance with the requirements of the Public Finance Corporation Act and applicant's Risk Management Policy, as from time to time in effect.

3. The payment of principal of, and any interest or premium on, the Debt Securities issued by applicant will be unconditionally guaranteed by the Treasury of the State of Tasmania for and on behalf of the Crown in right of the State of Tasmania pursuant to section 7 of the Public Authorities act.

4. In connection with any offering by applicant of its Debt Securities in the United States, each of applicant and Tasmania will appoint an agent in the United States to accept service of process in any suit, action, or proceeding brought with respect to such

[1] Financial arrangements between the Commonwealth and States are settled at annual meetings of the Premiers of each Australian State with the Prime Minister of the Commonwealth and at meetings of a representative of the Commonwealth Government, in practice the Federal Treasurer, and of each State Government, usually either the Premier or the Treasurer, called the Australian Loan Council.

[2] The term "on-lend" refers to applicant's function of borrowing money and thereafter relending such money to Participating Authorities.

Debt Securities instituted in any state or federal court in The City or State of New York. Applicant and Tasmania will expressly submit to the jurisdiction of any such court with respect to any such suit, action, or proceeding. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of such Debt Securities have been paid. Applicant will agree to explicitly waive any immunity it may have from jurisdiction and from execution or attachment or any process in the nature thereof in respect of any such action. Tasmania will agree to explicitly waive any immunity it may have from jurisdiction in respect of any such action. Applicant's waiver of immunity from execution or attachment or any process in the nature thereof will not apply to any action or procedure in any court in Tasmania to enforce a judgment with respect to such Debt Securities.

5. In addition, in respect of any suit, action, or proceeding brought with respect to such Debt Securities instituted in any state or federal court in the United States (other than any suit, action, or proceeding referred to in condition 4 above), each of applicant and Tasmania will agree to accept service of process by any form of mail requiring a signed receipt effected in accordance with sections 1608(b)(3)(B) and 1608(a)(3), respectively, of the Foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1608). In agreeing to accept such service of process in any such suit, action, or proceeding, neither applicant nor Tasmania will waive any claim of sovereign immunity it may have in respect of any such suit, action, or proceeding, consent to the subject matter jurisdiction or jurisdiction *in personam* of any such court, agree that any such court is a proper forum for any such suit, action, or proceeding or waive any rights it may have to remove any such suit, action, or proceeding from state court to federal court.

6. Applicant and Tasmania consent to any order of the SEC being expressly conditioned on their compliance with the conditions and representations contained in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-14092 Filed 6-15-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-92-17]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 26, 1992.

ADDRESSES: Send comments on any petition in triplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-9704.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on June 9, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Exemption

Docket No.: 15590.
Petitioner: Embry-Riddle Aeronautical University.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought: To extend Exemption No. 3859, as amended, from § 141.65 of the Federal Aviation Regulations (FAR) which allows Embry-Riddle Aeronautical University to recommend graduates of its Certified Flight Instructor Courses for certification without taking the FAA written or practical examination.

Docket No.: 23492.
Petitioner: United States Hang Gliding Assn., Inc.
Sections of the FAR Affected: 14 CFR 103.1(a).
Description of Relief Sought: To extend Exemption No. 4721, as amended, from § 103.1(a) of the Federal Aviation Regulations (FAR) which permits members of the United States Hang Gliding Association to operate two-place unpowered ultralight vehicles for the purposes of sport, training, and recreation.

Docket No.: 24800.
Petitioner: Tennessee Air Cooperative, Inc.
Sections of the FAR Affected: 14 CFR 103.1(e)(1).
Description of Relief Sought: To extend Exemption No. 5001, as amended, from § 103.1(e)(1) of the Federal Aviation Regulations (FAR) which allows Tennessee Air Cooperative, Inc., to operate powered ultralight vehicles at an empty weight of more than 254 pounds in order to accommodate physically disabled persons.

Docket No.: 25024.
Petitioner: Institute of Aviation, University of Illinois.
Sections of the FAR Affected: 14 CFR part 141, Appendices A, C, D, and H.
Description of Relief Sought: To extend Exemption No. 4719, as amended, from part 141, appendices A, C, D, and H of the Federal Aviation Regulations (FAR) which allows the University of Illinois Institute of Aviation to train its students to a performance standard in lieu of meeting minimum flight time requirements.

Docket No.: 26609.
Petitioner: Jet Exam.
Sections of the FAR Affected: 14 CFR 61.57 (c) and (d), 61.157(e), appendix A of part 61 and appendix H of part 121.

Description of Relief Sought: To amend Exemption No. 5373 from §§ 61.57 (c) and (d), 61.157(e), appendix A of part 61 and appendix H of part 121 of the Federal Aviation Regulations (FAR) to include alternate flight experience in lieu of some of the prerequisite flight experience currently stipulated in Condition 19 of Exemption No. 5373. This relief from Condition 19 is requested to the extent necessary to permit applicants for an ATP certificate to accomplish the entire practical test required by § 61.157 in Phase II or Phase III simulators.

Docket No.: 26645.
Petitioner: Memphis Soaring Society, Inc.
Sections of the FAR Affected: 14 CFR 61.118.
Description of Relief Sought: To permit private pilots to log the flight time accumulated while towing gliders for the Memphis Soaring Society, Inc.

Docket No.: 26759.
Petitioner: MGM Grand Air.
Sections of the FAR Affected: 14 CFR 121.139(a).
Description of Relief Sought: To allow MGM Grand Air to operate its aircraft without a portable microfilm reader on board.

Docket No.: 26764.
Petitioner: Florida West Airlines.
Sections of the FAR Affected: 14 CFR 121.583(a)(8).
Description of Relief Sought: To allow Florida West Airlines to transport employee dependents on their cargo flights without the limitation of being on company business traveling to and from outlying stations not served by adequate regular passenger service.

Docket No.: 26804.
Petitioner: Mr. Jim Gallagher.
Sections of the FAR Affected: 14 CFR 21.19.
Description of Relief Sought: To allow you to apply for a Supplemental Type Certificate to install a Norton NR–642 rotary aeroengine in a Lark IS–28B2 sailplane (glider).

Docket No.: 26820.
Petitioner: Golden Eagle Enterprises dba Mazzei Flying Service.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought: To allow Golden Eagle Enterprises, doing business as Mazzei Flying Service, to hold examining authority for flight instructor and airline transport pilot written tests.

Docket No.: 26855.
Petitioner: Academics of Flight.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought: To allow Academics of Flight to recommend graduates of its approved certification courses for the airline transport pilot certificate without taking the Federal Aviation Administration (FAA) written examination.

Docket No.: 26861.
Petitioner: Southern Air Transport, Inc.
Sections of the FAR Affected: 14 CFR 36.1(g) and 36.7(d)(2) (i) and (ii).
Description of Relief Sought: To allow Southern Air Transport, Inc., to operate its Boeing B–707–300C aircraft at takeoff weights in excess of those allowable under ICAO Annex 16 or FAR part 36 (Stage 2) in those foreign countries or airports where ICAO Annex 16 noise standards and FAR part 36 (Stage 2) noise limitations are inapplicable.

Dispositions of Petitions

Docket No.: 21605.
Petitioner: Alaska Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.574.
Description of Relief Sought/ Disposition: To amend and extend Exemption No. 3850, as amended, which would permit ASA to carry and operate oxygen storage and dispensing equipment for medical use by patients requiring emergency or continuing medical attention while being carried as passengers by ASA. The equipment shall be furnished and maintained by the hospital treating the patient. Grant, May 26, 1992, Exemption No. 3850D

Docket No.: 24761.
Petitioner: Executive Jet Aviation, Inc.
Sections of the FAR Affected: 14 CFR 91.511(a)(2) and 135.165(b).
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 7409, as amended, which permits Executive Jet Aviation, Inc., (EJA), to operate its turbojet powered aircraft in extended overwater operations, equipped with a single long-range navigation system (LRNS) and a single high-frequency communications radio. Grant, May 20, 1992, Exemption No. 4709C

Docket No.: 26058.
Petitioner: Gallup Flying Service.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To extend Exemption No. 5177 which allows properly trained pilots employed by Gallup Flying Service to change the seating configuration by removing aircraft passenger seats and installing approved stretchers when certificated maintenance personnel are not available. Grant, May 28, 1992, Exemption No. 5177A

Docket No.: 26267.
Petitioner: Mrs. Anne L. Julio.
Sections of the FAR Affected: 14 CFR 121.311(b).
Description of Relief Sought/ Disposition: To extend Exemption No. 5195 to allow Jacqueline Julio to use her personal safety belt and be held on the lap of her caregiver while aboard aircraft even though she has reached her second birthday. Grant, May 20, 1992, Exemption No. 5195A

Docket No.: 26389.
Petitioner: Britt Airways, Inc., dba Continental Express.
Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378.
Description of Relief Sought/ Disposition: To allow Britt Airways, Inc., to use certain foreign original equipment manufacturers to perform maintenance, preventive maintenance, and alterations on specific components and parts that are used on the Aerospatiale ATR–42 aircraft operated by Continental Express. Grant, June 1, 1992, Exemption No. 5457

Docket No.: 26396.
Petitioner: Mr. Barry G. Thompson, dba Oceanair.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To allow Mr. Barry G. Thompson to perform the preventive maintenance task of removing and/or reinstalling passenger seats in the Cessna Model 207 aircraft operated by Oceanair under part 135 of the FAR. Grant, June 1, 1992, Exemption No. 5458

Docket No.: 26465.
Petitioner: National Air Transportation Association.
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought/ Disposition: To allow the pilots employed by non-scheduled air carriers that are members of the National Air Transportation Association to remove and reinstall passenger seats, medical equipment, and cargo restraining device on aircraft used in operations conducted under Part 135 of the FAR. Denial June 1, 1992, Exemption No. 5456

Docket No.: 26502.
Petitioner: Critical Air Medicine, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To allow pilots employed by Critical Air Medicine, Inc., to

change the configuration of its aircraft by removing and replacing seats and stretchers to accommodate its air ambulance operations. Grant, June 2, 1992, Exemption No. 5459

Docket No.: 26541.
Petitioner: Alaskan Air Charters dba Air Adventures.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To allow properly trained pilots employed by Alaskan Air Charters dba Air Adventures to convert the cabins of its aircraft operated under FAR Part 135 from passenger to cargo configurations and vice versa by removing and replacing passenger seats, when such aircraft are specifically designated for that purpose. Grant, May 18, 1992, Exemption No. 5454

Docket No.: 26868.
Petitioner: Ground Air Transfer, Inc., dba Charter One.
Sections of the FAR Affected: 14 CFR 121.358(c)(1).
Description of Relief Sought/ Disposition: To permit Ground Air Transfer, Inc. to submit a request for approval of a retrofit schedule for windshear equipment after the June 1, 1990 deadline to the Flight Standards Division Manager in the region of the certificate holding district office. Grant, May 14, 1992, Exemption No. 5453

[FR Doc. 92-14074 Filed 6-15-92; 8:45 am]
BILLING CODE 4910-13-M

[Summary Notice No. PE-92-16]

Petitions for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received; correction.

SUMMARY: This notice corrects the summary for the petition for exemption for Robinson Helicopter Company (Docket No. 006SW), published in the **Federal Register** on June 2, 1992 at FR 23252.

Corrected Summary of the Petition for Exemption

Description of Relief Sought:

Requests an exemption from §§ 27.955(a)(7) and 27.1305(q) applying to the provision of a clogged fuel filter indicator for the R-44 fuel system and instead demonstrate compliance with the provisions of § 23.955(b) using the guidelines of Advisory Circular 23.955-1.

Issued in Washington, DC, on June 9, 1992.
Denise D. Castaldo,
Manager, Program Management Staff.
[FR Doc. 92-14075 Filed 6-15-92; 8:45 am]
BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the Agency has made such a submission. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency under the terms and conditions of Public Law 98-164. USIA is requesting approval for a three-year extension of an information collection entitled "United States Information Agency Arts America Program Fact Sheet for Performing Artists Touring Privately," (IAP-90), under OMB control number 3116-0165. Minor revisions were made to the fact sheet to enhance clarity of needed information. Estimated burden hours per response is one hour.

DATES: Comments are due on or before July 16, 1992.

COPIES: Copies of the Request for Clearance (SF-83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office of USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Debbie Knox, United States Information Agency, M/ASP, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 619-5503; and OMB review: Ms. Lin Liu, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone (202) 395-7340.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the United States Information Agency, M/ASP, 301 Fourth Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: United States Information Agency Arts America Program Fact Sheet to Performing Artists Touring Abroad.
Form Number: IAP-90.
Abstract: The USIA form IAP-90 facilitates submission of tapes and supporting materials to the U.S. Information Agency for artistic panel evaluation of artists being considered for USG financial support as a cultural presentation; and/or inclusion in USIA's quarterly listing of performers touring privately, sent to all American Embassies for possible facilitation assistance.
Proposed Frequency of Responses:
No. of Respondents—500
Recordkeeping Hours—0
Total Annual Burden—500.

Dated: June 10, 1992.
Rose Royal,
Federal Register Liaison.
[FR Doc. 92-14102 Filed 6-15-92; 8:45 am]
BILLING CODE 8230-01-M

Book and Library Advisory Committee Meeting

AGENCY: United States Information Agency.

ACTION: Notice of Meeting.

SUMMARY: The United States Information Agency announces an open meeting of the Book & Library Advisory Committee on Wednesday, June 24, 1992, 1 p.m.-4:30 p.m. in room 800-A, USIA Headquarters, 301 Fourth Street SW., Washington, DC. The Agenda will include reports from Book and Library Subcommittee Chairmen; David Hitchcock, USIA Director of East Asian & Pacific Affairs; and The Honorable Marvin Stone, President, International Media Fund. Chris Winston, USIA, Director of Public Liaison, and Andras Barkoczi, editor of Europa Publishers,

Budapest, an NYU publishing scholarship recipient, will also address the group.

DATE: June 24, 1992.

ADDRESS: 301 4th Street, SW., Washington, DC 20547

FURTHER INFORMATION CONTACT: Louise G. Wheeler or Patricia Gribben at 619–6089.

SUPPLEMENTARY INFORMATION: Copies of minutes can be obtained by calling 619–6089.

Dated: June 11, 1992.

Douglas Wertman,

Committee Management Officer.

[FR Doc. 92–14103 Filed 6–15–92; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 116
Tuesday, June 16, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

Notice of Public Hearing

There will be a public hearing on the proposed solid waste facility in Douglas, MA by the Subcommittee on the Environment of the Blackstone River Valley National Heritage Corridor Commission. Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that this hearing will be held. The Commission was established pursuant to Public Law 99-647, in order to protect and interpret the nationally significant resources in the Blackstone Valley.

PLACE: Douglas High School, Route 16, Constitution Drive, East Douglas, MA.

DATE: Thursday, June 25, 1992.

TIME: 7:00 p.m.

The Subcommittee on the Environment is holding this hearing to present environmental and other issues of concern within the Heritage Corridor as they relate to the proposed solid waste facility in Douglas, MA, and to promote discussion among the State agencies, the developer, and the public as to how those concerns may be addressed.

Requests from the public to address the subcommittee shall be made in writing and received in the Commission office no later than Monday, June 22, 1992. *Comments or presentations will be limited to 4 minutes each and comments may also be provided in writing. All comments must be received in the Commission office no later than July 24, 1992.*

Requests to address the subcommittee or written comments should be mailed to:

Blackstone River Valley National Heritage Corridor Commission, Uxbridge, MA 01569.

Nancy I. Brittain,

Acting Executive Director, Blackstone River Valley National Heritage Corridor.

[FR Doc. 92-14256 Filed 6-12-92; 3:00 pm]

BILLING CODE 4310-70-M

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting Thursday, June 18, 1992

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, June 18, 1992, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Common Carrier—Title: Amendment of Parts 65 and 69 of the Commission's Rules to Reform the Interstate Rate of Return Represcription and Compliance Processes. Summary: The Commission will consider adoption of a *Notice of Proposed Rule Making and Order* concerning procedures and methodologies for prescribing interstate rates of return and ensuring compliance thereto.

2—Common Carrier—Title: Price Cap Performance Review for AT&T. Summary: The Commission will consider adoption of a *Notice of Inquiry* concerning AT&T Communications' performance since price cap regulation was initiated on July 1, 1989.

3—Common Carrier—Title: Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation. Summary: The Commission will consider adoption of a *Notice of Proposed Rule Making* concerning methods of regulating local exchange carriers not subject to price caps.

4—Office of Engineering and Technology—Title: Amendment of Part 15 to Enable Widespread Implementation of Home Automation and Communications Technology (ET Docket No. 91-269, RM-7296). Summary: The Commission will consider adoption of a *Report and Order* to facilitate introduction of sophisticated, new home automation and communications systems.

5—Private Radio—Title: Amendment of Part 97 of the Commission's Rules to Change the Restrictions on the Scope of Permissible Communications in the Amateur Service (RM-7849, RM-7895, RM-7896). Summary: The Commission will consider adoption of a *Notice of Proposed Rule Making* concerning whether to change the restrictions on the communications that may be transmitted by amateur stations.

6—Private Radio—Title: Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service (PR Docket No. 89-552). Summary: The Commission will consider adoption of a *Memorandum Opinion and Order* concerning private land mobile operations in the 220-222 MHz band.

7—Mass Media—Title: Amendment of Part 76, Subpart J, Section 76.501 of the Commission's Rules and Regulations to Change the Prohibition on Common Ownership of Cable Television Systems and National Television Networks (MM Docket No. 82-434). Summary: The Commission will consider adoption of a *Report and Order* amending the network-cable cross-ownership rule.

The meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632-5050.

Issued: June 11, 1992.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 92-14249 Filed 6-12-92; 2:58 pm]

BILLING CODE 6712-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, June 18, 1992.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Francis A. Marin* v. *Asarco, Inc.*, Docket No. WEST 91-161-DM (Issues include whether the judge erred in denying Asarco's motion for sanctions under Fed. R. Civ. P. 11 & 37(b)(2) against Marin for filing a frivolous claim and for discovery abuse.)

2. *Peabody Coal Company*, Docket No. LAKE 91-11. (Issues include whether the judge erred in finding that Peabody's violation of 30 C.F.R. § 75.400 was caused by its unwarrantable failure to comply with the standard.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(e).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

Issued: June 11, 1992

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 92-14262 Filed 6-12-92; 3:25 pm]

BILLING CODE 6735-01-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-92-15]

TIME AND DATE: June 24, 1992 at 2:30 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and complaints.
5. Inv. 731-TA-522 (Final) (Minivans from Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 205-2000.

Dated: June 10, 1992.

Kenneth Mason,

Secretary.

[FR Doc. 92-14214 Filed 6-12-92; 2:08 pm]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-92-16]

TIME AND DATE: June 25, 1992 at 2:30 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Inv. 701-TA-312 (Final) (Softwood lumber from Canada)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 205-2000.

Dated: June 10, 1992.

Kenneth Mason,

Secretary.

[FR Doc. 92-14215 Filed 6-12-92; 2:08 pm]

BILLING CODE 7020-02-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of June 15, 22, 29, and July 6, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of June 15

Friday, June 19

10:00 a.m.
Briefing on Requests to DOE for Technology Transfers Under 10 CFR Part 810 (Closed—Ex. 1 and 4)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of June 22—Tentative

Wednesday, June 24

9:00 a.m.
Briefing by DOE on Status of Civilian High Level Waste Program (Public Meeting)

2:30 p.m.
Briefing on Proposed Part 100 Rule Change (Public Meeting)

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Thursday, June 25

9:00 a.m.
Briefing on Industry Progress on First-of-a-Kind Engineering (FOAKE) (Public Meeting)

1:30 p.m.
Discussion of Nuclear Issues in the Former Soviet Union (Public Meeting)

Week of June 29—Tentative

Thursday, July 2

9:30 a.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of July 6—Tentative

Wednesday, July 8

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504-1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 504-1661.

Dated: June 12, 1992.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 92-14253 Filed 6-12-92; 2:59 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 57, No. 116
Tuesday, June 16, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-30772; International Series Release No. 393; File No. S7-13-92]

RIN 3235-AE41

Short Sales

Correction

In proposed rule document 92-13465 beginning on page 24415 in the issue of Tuesday, June 9, 1992, in the second column, under **DATES**, in the second line, "July 9, 1992" should read "August 10, 1992".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Office of the Secretary

Cancellation of Treasury Order

Correction

In notice document 92-12677 appearing on page 23119 in the issue of Monday, June 1, 1992, in the second column, under **SUMMARY**, in the first line, "Treasury Order 122-02" should read "Treasury Order 112-02".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8394]

RIN 1545-A037

Proceeds of Bonds Used for Reimbursement

Correction

In rule document 92-2023 beginning on page 3526 in the issue of Thursday, January 30, 1992, make the following correction:

§ 1.103-18 [Corrected]

1. On page 3531, in § 1.103-18(c)(1)(iii), in the second column, in the third line, "owed by" should read "owned by".

BILLING CODE 1505-01-D

federal register

Tuesday
June 16, 1992

Part II

Department of Defense

Corps of Engineers, Department of the Army

33 CFR Parts 323 and 328

Environmental Protection Agency

40 CFR Parts 110, et al.

Proposed Rules for the Clean Water Act Regulatory Programs

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 323 and 328

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 110, 112, 116, 117, 122, 230, 232 and 401

Proposed Rule for the Clean Water Act Regulatory Programs of the Army Corps of Engineers and the Environmental Protection Agency

AGENCIES: U.S. Army Corps of Engineers, Department of the Army, DOD; and Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Corps of Engineers and the Environmental Protection Agency (EPA) are proposing today to undertake the following actions with regard to the Clean Water Act Section 404 regulatory program: (1) Modify the definition of "discharge of dredged material;" (2) clarify when the placement of pilings is considered to result in a discharge of fill material; and (3) clarify that prior converted croplands are not waters of the United States. EPA is also proposing conforming changes to the Clean Water Act "waters of the United States" and "navigable waters" definitions in other Clean Water Act program regulations. This proposed rulemaking is consistent with the President's August 9, 1991, Wetlands Protection Plan. In addition, the first two proposed changes implement the settlement agreement in *North Carolina Wildlife Federation* v. *Tulloch*.

DATES: Written comments must be submitted by August 17, 1992.

ADDRESSES: Written comments should be submitted to: The Chief of Engineers, United States Army Corps of Engineers, ATTN: Mr. Sam Collinson, CECW–OR, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Davis, Office of the Assistant Secretary of the Army for Civil Works at (703) 695–1376 or Mr. John Studt (Corps) at (202) 272–0199 or Mr. Gregory Peck (EPA) at (202) 260–8794 or Ms. Hazel Groman (EPA) at (202) 260–8798.

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1992, the Federal government agreed to settle a pending lawsuit brought by the North Carolina Wildlife Federation and the National Wildlife Federation (*North Carolina Wildlife Federation, et al.* v. *Tulloch*, Civil No. C90–713–CIV–5–BO (E.D.N.C. 1992)) involving section 404 of the Clean Water Act (CWA) as it pertains to certain activities in waters of the United States. In accordance with the settlement agreement, the Corps and EPA are proposing changes to their regulations to clarify that mechanized landclearing, ditching, channelization, and other excavation activities involve discharges of dredged material and when performed in waters of the United States will be regulated under section 404 of the CWA when such activities have or would have the effect of destroying or degrading waters of the United States, including wetlands. In addition, the Corps and EPA have agreed to incorporate into the section 404 regulations the substantive provisions of the Corps Regulatory Guidance Letter (RGL) 90–8 to clarify the circumstances under which the placement of pilings have the effect of "fill material" subject to regulation under section 404. These proposed changes will not affect in any manner the existing statutory exemptions for normal farming, ranching, and silviculture activities in section 404(f).

The settlement agreement is consistent with one of the components of President Bush's Plan for Protecting America's Wetlands which acknowledges the need to evaluate the scope of activities regulated under the section 404 program. The President's Plan, announced August 9, 1991, is a balanced approach of administrative actions that will enhance protection of wetlands on Federal lands, improve Federal wetlands research, and increase Federal land acquisition, revise the Federal wetlands delineation manual, and streamline and improve the section 404 regulatory program.

In addition to the changes proposed in accordance with the settlement agreement and consistent with the President's Wetlands Plan, the Corps and EPA are proposing to incorporate into the section 404 regulations the substantive provisions of the Corps RGL 90–7 to clarify that prior converted croplands are not waters of the United States subject to regulation under the CWA. EPA is also proposing conforming changes to the definitions of "waters of the United States" and "navigable waters" for all other CWA program regulations contained in 40 CFR parts 110, 112, 116, 117, 122, and 401 to provide consistent definitions in all CWA program regulations.

Overall, these proposed changes will promote national consistency, more clearly notify the public of regulatory requirements and ensure that the section 404 regulatory program is more equitable to the regulated public, enhance the protection of waters of the United States, and clarify which areas in agricultural crop production will not be regulated as waters of the United States.

Proposed Changes

33 Part 323—Permits for Discharges of Dredged or Fill Material into Waters of the United States

40 CFR Part 232—404 Program Definitions; Exempt Activities Not Requiring 404 Permits

33 CFR Secton 323.2(d) and 40 CFR 232.2(e)

The Corps and EPA jointly administer the CWA section 404 regulatory program. The CWA provides the Corps and EPA with broad authority to regulate activities involving a discharge of dredged or fill material into the Nation's waters, including wetlands. Based on this authority, the Corps and EPA have broad discretion in defining those activities that involve a discharge of dredged or fill material and therefore require authorization under section 404.

Historically, the Corps has regulated all activities involving discharges of fill material. However, Corps guidance has not been entirely clear or uniform among all Corps district offices regarding which activities involving discharges of material excavated (i.e., dredged) from the waters of the United States require authorization under section 404. The Corps has traditionally regulated ditching activities where the material was excavated and sidecast into adjacent wetlands resulting in spoil piles or berms. In situations where the excavated material was almost completely removed to the surrounding uplands, Corps districts have varied markedly in exercising their discretion to regulate the activity. Based in part on 15 years of experience, the Corps and EPA do not believe that it is possible to conduct mechanized landclearing, ditching, channelization, or other excavation activities in waters of the United States without at least some incidental discharge of dredged material; nor do the agencies believe that it is possible to completely remove all excavated material to the uplands.

The differences from one Corps district to another in the types of excavation activities regulated did not greatly affect the section 404 program until recently. The Corps has received numerous questions regarding which ditching activities would require a section 404 permit. This has increased

workload, and the resulting delays are taxing Federal resources and delaying project proponents who often wait for a written determination from the Corps on whether their activities are regulated. Furthermore, in certain circumstances, applicants with substantial resources appeared to attempt to avoid section 404 regulation for drainage activities by removing, as much as possible, the excavated material to uplands. As a result, project proponents were sometimes not regulated under the current Corps and EPA policy framework although the impacts of such projects were similar to those of projects currently being regulated. The changes that the Corps and EPA are proposing in this rule will make the regulatory program more equitable for all project proponents, and the agencies will be able to focus limited resources on reasonably regulating mechanized landclearing, ditching, channelization, or other excavation activities. States with authorized section 404 programs will need to review their statute and regulations for consistency and if necessary, change their regulations in accordance with 40 CFR 233.16(b).

The Corps' current definition of "discharge of dredged material," at 33 CFR 323.2(d), provides that *de minimis* incidental soil movement occurring during normal dredging operations is not considered to be within this regulatory definition. This exclusion derives, in part, from a desire to avoid duplicative regulation of dredging itself in waters within the jurisdictional scope of the Rivers and Harbors Act. EPA's regulations contain a similar definition, with the same exclusion, at 40 CFR 232.2(e).

Over the years, application of this "*de minimis*" language has become problematic, especially when applied to activities which did not involve dredging for the purposes of maintaining navigation in traditionally navigable waters. Because of the lack of guidance in the regulation, in some instances this language has been interpreted to exclude from regulation landclearing and drainage activities in wetlands where the actual quantity of excavated material discharged was relatively small, but where the discharge was part of an activity which could have significant environmental impacts on the waters of the United States, contrary to the intent of the Clean Water Act. While the Corps and EPA have attempted to address this problem through guidance memoranda, e.g., RGL 90–5, addressing which landclearing activities are subject to section 404 jurisdiction, the agencies believe that a regulatory change would lead to a better understanding of the scope of the term "discharge of dredged material" and would promote greater national consistency and more effective protection of the aquatic environment.

Under the proposal, language has been added to the definition of "discharge of dredged material" to clarify both what is included in the definition of regulated activities and what is excluded from the definition. For example, the proposal clarifies that the phrase "normal dredging operations" refers to "dredging to maintain, deepen, or extend navigation channels in the navigable waters of the United States, as defined in 33 CFR part 329 [section 10 waters], with proper authorization from the Corps."

In addition, the new language would clarify that, apart from the exclusion for "normal dredging operations," the term "discharge of dredged material" includes any discharge, i.e., addition or redeposition, of excavated material into waters of the United States which is incidental to any activity, including mechanized landclearing, ditching, channelization, or other excavation, which has or would have the effect of destroying or degrading any area of the waters of the United States. The term "discharge of dredged material" does not include *de minimis* soil movement incidental to activities which do not or would not have such an effect.

The Corps has regulated discharges associated with mechanized landclearing operations for many years. However, it has not always been clear which landclearing activities would result in discharges, in part due to uncertainty over whether the activity involved a discharge sufficiently large to trigger Section 404 regulation. Over the years the Corps has issued several RGLs to clarify this issue. Most recently, the Corps issued RGL 90–5, dated July 18, 1990, to address which landclearing activities should be subject to Section 404 jurisdiction. This issue was also addressed in *Avoyelles Sportsmen's League, Inc.* v. *Marsh*, 715 F.2d 897 (5th Cir. 1983). In this case the court stated that the term "discharge" may reasonably be understood to include "redeposit" and concluded that the term "discharge" covers the redepositing of soil taken from wetlands, such as occurs during mechanized landclearing activities. Our experience over the years, and the Fifth Circuit ruling in *Avoyelles*, have convinced us that mechanized landclearing, ditching, channelization, and other excavations do consistently involve discharges and that the activities which produce the discharges should be regulated where the activities would destroy or degrade waters of the United States.

We believe that it is appropriate to look at the environmental effect of activities that involve incidental soil movement for several reasons. First, the Federal government has broad authority under section 404(a) to regulate any discharge of dredged or fill material into any water of the United States. This authority has been upheld by many decisions of the Federal courts. Second, the Act contains no explicit exemption for *de minimis* discharges; any inference of one would need to be consistent with the environmental purposes of the Act. Third, the proposed language also parallels the approach and implements the policy of section 404(f), which generally exempts minor discharges from farming, ranching, and silvilcultural activities, but "recaptures" them when the activity alters waters of the United States. Specifically, CWA section 404(f)(2) states that "*any* discharge of dredged or fill material into navigable waters incidental to *any activity*" (emphasis added) that could bring any area of the waters of the United States into a new use and where the reach of the waters could be reduced or where their flow or circulation could be impaired shall be required to have a permit under section 404 (See 40 CFR 232.3 and 33 CFR 323.4 for a more detailed description of the scope of the section 404(f) exemptions). Furthermore, we believe that normal dredging operations, as we propose to define them, should not be regulated under section 404, since they generally do not alter the reach or flow or circulation of the waters, nor do they convert waters of the United States into dry land or degrade wetlands. Normal dredging in navigable waters will continue, however, to be regulated under section 10 of the Rivers and Harbors Act of 1899.

Discussion of Proposed Revisions

The Corps and EPA are proposing to change the definition of the term "discharge of dredged material" at 33 CFR 323.2(d) and 40 CFR 232.2(e). The practical effect of this change in definition is that the Corps, EPA as appropriate, and authorized states as appropriate, would regulate under Section 404 all mechanized landclearing, ditching, channelization, and other excavation activities performed in waters of the United States that have or would have the effect of destroying or degrading waters of the United States, including wetlands. This will eliminate the current inconsistencies associated with the regulation of these activities.

The proposed rule does not change in any way the manner in which the Corps and EPA determine whether an activity is exempt under section 404(f)(1) of the CWA. Therefore, the proposal will not, in any way, affect the exemptions for agriculture, silviculture or ranching activities now provided by CWA section 404(f).

Moreover, the proposed changes as a general rule will not result in the Corps regulating pumping of water from a waterbody, snagging operations, or vehicular traffic in wetlands. Pumping water from a wetland or other water of the United States or snagging vegetative material from a water of the United States generally would not, in and of itself, result in a discharge of dredged material. However, if excavation or filling would be done to accomplish the pumping and the activity would destroy or degrade a water of the United States (or if the snagging operation would result in a discharge through redeposition of soil and would destroy or degrade a water of the United States) then the activity would be regulated. The term "snagging" as used in this paragraph means the removal of trees, parts of trees, or the like, from a water body to prevent their interfering with navigation. Although vehicular traffic may result in a redeposition of material, that activity generally would not destroy or degrade a water of the United States. We invite specific comments from the public on all issues presented in this paragraph.

Although the Corps and EPA have not yet adopted a final definition for either the term "destroy" or the term "degrade," we propose the following and invite and encourage public comment on this issue. Under the proposed rule, destruction of a wetland, or other water of the United States, would occur when the activity that involved the discharge of dredged material alters the area in such a way that it would no longer be a water of the United States. Also under the proposal, degradation of a wetland or other water of the United States would occur when the activity that involves the discharge results in an identifiable decrease in the functional values of the water of the United States. Under these definitions, activities may come within section 404 jurisdiction, but could be regulated under a nationwide or regional general permit if they would have minimal environmental effects. We invite public comment identifying appropriate categories of excavation activities that would generally have minimal environmental effects and therefore be potential candidates for authorization under general permit.

The proposed definition of "degradation" is intended to define a threshold which excludes from regulation certain activities that would have no identifiable adverse effect on waters of the United States. The Corp and EPA are inviting suggestions on alternative methods for defining this threshold. The Corp and EPA are specifically inviting comment on whether "identifiable decreases" in aquatic resource functional value is an appropriate threshold test that is sufficiently clear for the purposes of implementing the regulatory program. For example, if a wetland is drained in such a way that the hydrologic regime is altered enough to change the vegetative composition of the area, the wetland will be considered to be degraded. Further, most sand and gravel mining in waters of the United States results in, at a minimum, incidental discharges and destroys or degrades waters of the United States and thus would be regulated. We invite public comment suggesting any categories of activities which might involve incidental discharges of dredged or fill material into waters of the United States, but which as a general rule would not be regulated under this regulation because they would not destroy or degrade waters of the United States.

Under the proposed rule, it would not be necessary for the Corps, EPA, or authorized states to establish, on a case-by-case basis, that mechanized landclearing, ditching, channelization, and other excavation activities involve a discharge of dredged material because, as discussed above, the agencies do not believe that it is possible to conduct these activities without redepositing some of the excavated material. Moreover, the agencies believe that, in virtually all cases, mechanized landclearing, ditching, channelization, and other excavation in waters of the United States would destroy or degrade waters of the United States, and the agencies will therefore apply a rebuttable presumption that these types of activities would have such an effect, and are therefore regulated under section 404. Where a project proponent believes that its activities will not destroy or degrade waters of the United States, the proponent will have the burden of demonstrating to the Corps that such effects will not occur as a result of the activity. The activity will be subject to regulation under section 404 unless the Corps, EPA when it is the lead enforcement agency or undertaking a section 404(c) action in advance of a specific permit application, or an authorized state as appropriate, determine that the project proponent has made such a showing.

33 CFR Section 323.3(c) and 40 CFR Section 232.2(r)

The Corps for many years has considered pilings to be structures regulated under section 10 of the Rivers and Harbors Act of 1989, but did not consider them as a general rule to constitute a discharge of fill material for purposes of section 404. However, the Corps has also long recognized that, under certain circumstances, pilings can have the effect of fill and thus should be regulated under section 404. Recognizing this problem, the Corps, on November 3, 1988, issued RGL 88–14. Subsequent to that RGL, additional questions were raised concerning when pilings should be regulated under section 404. A number of new projects were being proposed to be constructed on pilings in an attempt to avoid section 404 jurisdiction. These projects were for activities that would normally be constructed on fill such as hotels, industrial developments, stores, and parking structures. Since these issues were not addressed in RGL 88–14, a new RGL 90–8 was issued on December 14, 1990.

In summary, RGL 90–8 provides that there are two situations where pilings are regulated under section 404 of the CWA: (1) Pilings that have the physical effect of fill (including pilings that are closely spaced rather than normal open pile structures); and (2) Pilings that have the functional use and effect of fill (including pilings that support structures that are normally placed on fill such as multi-family housing, office buildings, etc.). Under RGL 90–8, however, pilings are not to be regulated in circumstances involving linear projects traditionally used to cross waters of the United States such as bridges, elevated walkways, and powerline structures. Similarly, placement of pilings would not be regulated for structures that traditionally are constructed on pilings such as piers, boathouses, wharves, marinas, lighthouses, and individual houses built on stilts where pile-supported construction is used to avoid substantial flooding.

In the settlement agreement reached between the Federal government and the National Wildlife Federation, as a result of the case *North Carolina Wildlife Federation, et al.* v. *Tulloch,* Civil No. C90–713–CIV–5–BO (E.D.N.C.), the Corps and EPA agreed to propose that the relevant portions of RGL 90–8 concerning the regulation of

pilings under section 404 be promulgated in the Code of Federal Regulations through notice and comment rulemaking under the Administrative Procedure Act process. Therefore, the Corps and EPA are seeking comments on this proposal to define clearly when pilings should be regulated under section 404. In particular, the Corps is considering adding some restaurants that are constructed on pilings to the list of activities that are not subject to regulation pursuant to RGL 90–8.

33 CFR Part 328–Definition of Waters of the United States
40 CFR Part 110–Discharge of Oil
40 CFR Part 112–Oil Pollution Prevention
40 CFR Part 116–Designation of Hazardous Substances
40 CFR Part 117–Determination of Reportable Quantities for Hazardous Substances
40 CFR Part 122–EPA Administered Permit Programs: The National Pollutant Discharge Elimination System
40 CFR Part 230–Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material
40 CFR Part 232–404 Program Definitions; Exempt Activities Not Requiring 404 Permits
40 CFR Part 401–Effluent Guidelines and Standards

CFR Section 328.3(a)(8), 40 CFR Section 110.1, 40 CFR Section 112.2, 40 CFR Section 116.3, 40 CFR Section 117(i)(7), 40 CFR Section 122.2, 40 CFR Section 230.3(s)(8), 40 CFR Section 232.2(g)(8), and 40 CFR 401.11(1)

We propose to add new language to 33 CFR 328.3(a), 40 CFR 110.1, 40 CFR 112.2, 40 CFR 116.3, 40 CFR 117(i)(7), 40 CFR 122.2, 40 CFR 230.3(s), 40 CFR 232.2(g), and 40 CFR 401.11(1) which currently define waters of the United States. The Corps new language would note two examples of areas that are not waters of the United States. The first is simply waste treatment systems, as presently described at the referenced section. The second, in accordance with the President's Wetlands Plan, would codify the Corps and EPA's present policy regarding prior converted cropland. EPA's new language would not modify any current references to waste treatment systems, but would codify the Corps and EPA's policy regarding prior converted cropland at the referenced sections.

On September 26, 1990, the Corps issued RGL 90–7 "Clarification of the Phrase 'Normal Circumstances' as it Pertains to Cropped Wetlands," in order to establish greater consistency between the section 404 regulatory program and the Swampbuster provisions of the Food Security Act, as amended by the Food, Agriculture, Conservation and Trade Act of 1990, which is implemented by the Soil Conservation Service (SCS). Under RGL 90–7, "prior converted cropland," as defined by the SCS National Food Security Act Manual, are not wetlands within the meaning of the Corps and EPA regulations. Prior converted croplands are wetlands that, prior to December 23, 1985, were both manipulated (drained or otherwise physically altered to remove excess water from the land) and cropped to the extent that they are inundated for no more than 14 consecutive days during the growing season. Prior converted croplands do not include pothole or playa wetlands.

The Corps and EPA are proposing to amend their definitions of waters of the United States with regard to prior converted croplands in order to provide for consistency in the administration of the various Federal programs affecting these types of areas. This proposed change would achieve the agencies' policy objectives of achieving greater predictability for affected parties as they deal with the Federal government regarding prior converted cropland.

SCS determinations of prior converted cropland do not constitute section 404 jurisdictional determinations because only the Corps and EPA have the statutory authority to determine the geographic scope of section 404 jurisdiction. The final determination of whether an area is a water of the United States for purposes of section 404 regulation is made by the Corps or EPA as appropriate, pursuant to the January 19, 1989, Army/EPA Memorandum of Agreement on geographic jurisdiction. The Corps (and EPA, as appropriate) will accept and concur in SCS prior converted cropland designations to the extent possible. Nevertheless, any person considering a proposal that would involve the discharge of dredged or fill material into areas designated as prior converted cropland by the SCS is encouraged to obtain Corps (or EPA) concurrence in the prior converted cropland designation.

The Corps and EPA note that under today's proposal a prior converted cropland is considered to be abandoned unless: For once in every five years the area has been used for the production of an agricultural commodity; or, the area has been used and will continue to be used for the production of an agricultural commodity in a commonly used rotation with aquaculture, grasses, legumes or pasture production.

The Corps and EPA are proposing to define "prior converted cropland" in accordance with the SCS National Food Security Manual, Second Edition, 180–V–VFSAM, Amendment 6, May 1991. The National Food Security Act Manual sets forth SCS policy and procedures for implementing, *inter alia*, the Swampbuster provisions of the Food Security Act of 1985, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990. By virtue of this incorporation by reference, the Corps and EPA are only incorporating the cited version of the National Food Security Act Manual, i.e., Second Edition, Amendment 6, May 1991. With respect to any subsequent version of the National Food Security Act Manual issued by SCS, the Corps and EPA will review any such subsequent version regarding changes made to the definition of "prior converted cropland" and determine at that time whether to incorporate by reference such subsequent version into the section 404 regulations and other CWA program regulations.

In proposing to codify the prior converted cropland RGL, the Corps and EPA do not intend to alter their longstanding position that a party cannot eliminate the jurisdiction of the CWA over an area through an unauthorized discharge activity. This, an area which becomes prior converted cropland by virtue of such unauthorized discharge is still covered by section 404 and subject to an enforcement action for any activity which violated the CWA.

By proposing to codify the prior converted cropland RGL into regulation, the agencies would be revising the definitions of "waters of the United States" and "navigable waters" for all EPA programs under the CWA to clarify that prior converted croplands are not within the scope of CWA jurisdiction. EPA is interested in receiving public comment on what effect, if any, such codification would have on compliance, response, and enforcement efforts under other EPA programs, in particular, the CWA Section 311 program which prohibits the discharge of oil and hazardous substances, requires notification of any such discharge, and sets requirements for prevention and clean-up (see 40 CFR 110.1, 112.2, 116.3, and 117.1).

Environmental Documentation

We have made a preliminary determination that this action does not constitute a major Federal action significantly affecting the quality of the human environment. However, an environmental assessment will be

prepared prior to making a final decision on this proposed regulation. If we determine that there would be a significant impact on the quality of the human environment an Environmental Impact Statement will be prepared before a final decision is made. Furthermore, appropriate environmental documentation is prepared for all permit decisions.

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Army and the Environmental Protection Agency have determined that the revisions to these regulations do not contain a major proposal requiring the preparation of a regulatory analysis under E.O. 12291. The Department of the Army and the Environmental Protection Agency certify, pursuant to Section 605(b) of the Regulatory Flexibility Act of 1980, that these regulations will not have a significant impact on a substantial number of entities.

Note 1.—The term "he" and its derivatives used in these regulations are generic and should be considered as applying to both male and female.

List of Subjects

33 CFR Part 323

Navigation, Water pollution control, Waterways.

33 CFR Part 328

Incorporation by reference, Navigation, Water pollution control, Waterways.

40 CFR Parts 110, 112, 116, 117, 122, 230, 232, and 401

Incorporation by reference, Wetlands, Water pollution control.

Dated: June 4, 1992.

Nancy P. Dorn,

Assistant Secretary of the Army (Civil Works), Department of the Army.

F. Henry Habicht, II,

Deputy Administrator Environmental Protection Agency.

Accordingly, 33 CFR parts 323 and 328 and 40 CFR parts 110, 112, 116, 117, 122, 230, 232 and 401 are proposed to be amended as follows:

33 CFR CHAPTER II—[AMENDED]

PART 323—PERMITS FOR DISCHARGES OF DREDGED OR FILL MATERIALS INTO WATERS OF THE UNITED STATES

1. The authority citation for part 323 continues to read as follows:

Authority: 33 U.S.C. 1344.

2. Section 323.2(d) is revised to read as follows:

§ 323.2 Definitions.

* * * * *

(d)(1) The term *discharge of dredged material* means any addition of dredged material into the waters of the United States. The term includes, withhout limitation, the addition of dredged material to a specified discharge site located in waters of the United States and the runoff or overflow from a contained land or water disposal area. Discharges of pollutants into waters of the United States resulting from the onshore subsequent processing of dredged material that is extracted for any commercial use (other than fill) are not included within this term and are subject to section 402 of the Clean Water Act even though the extraction and deposit of such material may require a permit from the Corps or applicable state. The term "discharge of dredged material" includes, without limitation, any addition or redeposit of dredged materials, including excavated materials, into waters of the United States which is incidental to any activity (except normal dredging operations as defined below), including mechanized landclearing, ditching, channelization, or other excavation which has or would have the effect of destroying or degrading any area of waters of the United States. The term does not include *de minimis* soil movement incidental to any activity which does not have or would not have the effect of destroying or degrading any area of waters of the United States. Moreover, the term does not include *de minimis*, incidental soil movement occurring during normal dredging operations, defined as dredging to maintain, deepen, or extend navigation channels in the navigable waters of the United States, as defined in 33 CFR part 329, with proper authorization from the Congress and/or the Corps. The term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber, and forest products (See § 323.4 for the definition of these terms).

(2) For purposes of paragraph (d)(1), mechanized landclearing, ditching, channelization, or other excavation activities in waters of the United States result in a discharge of dredged material. Further, where such activities occur in waters of the United States, the activity is presumed to result in the destruction or degradation of such waters unless the project proponent demonstrates to the satisfaction of the Corps, or EPA as appropriate, that the activity would not have such an effect in a particular case.

§ 323.2 [Amended]

3. Section 323.2(e) is amended by adding a sentence at the end that reads as follows:

* * * * *

(e) * * * See § 323.3(c) concerning the regulation of the placement of pilings in waters of the United States.

* * * * *

4. Section 323.2(f) is amended by adding a sentence at the end that reads as follows:

* * * * *

(f) * * * See § 323.3(c) concerning the regulation of the placement of pilings in waters of the United States.

* * * * *

5. Section 323.3(c) is added to read as follows:

§ 323.3 Discharges requiring permits.

* * * * *

(c) *Pilings.* (1) The placement of pilings in waters of the United States shall require a section 404 permit when such placement is used in a manner essentially equivalent to a discharge of fill material in physical effect or functional use and effect. Examples include, but are not limited to, the following activities in waters of the United States:

(i) *Physical effect of fill:* Projects that in effect replace an aquatic area or change the bottom elevation of a waterbody as a result of the placement of pilings that are so closely spaced that sedimentation rates are increased or the pilings themselves essentially replace the bottom will require a section 404 permit. This circumstance would include pilings placed in waters of the United States for dams, dikes, or other structures utilizing densely spaced pilings, or as a foundation for large structures.

(ii) *Functional use and effect of fill:* Construction projects will require a section 404 permit where pilings serve essentially the same functional use as a solid fill foundation, and where the project would result in essentially the same effects as fill (e.g., alter flow or circulation of the waters, bring the area into a new, non-aquatic use, or significantly alter or eliminate aquatic functions and values). Regulated activities include the placement of pilings to facilitate the construction of office and industrial developments, parking structures, restaurants, stores, hotels, multi-family housing projects, and similar structures in waters of the United States.

(2) Placement of pilings in waters of the United States will not require a permit under section 404 in

circumstances involving linear projects such as bridges, elevated walkways, or powerline structures. Similarly, placement of pilings in waters of the United States will not require a section 404 permit in circumstances that involve structures that have been traditionally been constructed on pilings; examples are piers, boathouses, wharves, marinas, lighthouses, and individual houses built on stilts solely to reduce the potential of flooding (e.g., beach houses where road access is on uplands, but the house may be located in a low area necessitating construction on stilts). However, all pilings placed in the navigable waters of the United States (see 33 CFR part 329) require authorization under section 10 of the Rivers and Harbors Act of 1899 (see 33 CFR part 322).

PART 328—DEFINITION OF WATERS OF THE UNITED STATES

6. The authority citation for part 328 continues to read as follows:

Authority: 33 U.S.C. 1344.

7. Section 328.3(a) is amended by removing the last sentence and adding a new paragraph (a)(8) that reads as follows:

§ 328.3 Definitions.

* * * * *

(a) * * *

(8) Waters of the United States do not include:

(i) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition); or

(ii) Prior converted cropland, as defined by the National Food Security Act Manual, Second Edition, 180–V–NFSAM, Amendment 6, May 1991, Soil Conservation Service. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the National Food Security Act Manual may be obtained from the U.S. Department of Agriculture, Soil Conservation Service, South Agriculture Building, room 0054, 14th and Independence Ave. SW., Washington, DC or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

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40 CFR CHAPTER I—[AMENDED]

PART 110—DISCHARGE OF OIL

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1321 (b)(3) and (b)(4) and 1361(a); 33 U.S.C. 1517(m)(3).

2. Section 110.1, definition of navigable waters, is amended by adding three new sentences of concluding text at the end of the definition to read as follows:

§ 110.1 Definitions.

* * * * *

Navigable waters do not include prior converted cropland, as defined by the National Food Security Act Manual, Second Edition, 180–V–NFSAM, Amendment 6, May, 1991, Soil Conservation Service. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the National Food Security Act Manual may be obtained from the U.S. Department of Agriculture, Soil Conservation Service, South Agriculture Building, room 0054, 14th and Independence Avenue, SW., Washington, DC or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

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PART 112—OIL POLLUTION PREVENTION

1. The authority citation for part 112 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 112.2(k), definition of navigable waters, is amended by adding three new sentences of concluding text at the end of the definition to read as follows:

§ 112.2 Definitions.

* * * * *

Navigable waters do not include prior converted cropland, as defined by the National Food Security Act Manual, Second Edition, 180–V–NFSAM, Amendment 6, May, 1991, Soil Conservation Service. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the National Food Security Act Manual may be obtained from the U.S. Department of Agriculture, Soil Conservation Service, South Agriculture Building, room 0054, 14th and Independence Avenue, SW., Washington, DC or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

* * * * *

PART 116—DESIGNATION OF HAZARDOUS SUBSTANCES

1. The authority citation for part 116 continues to read as follows:

Authority: 33 U.S.C. 1521 *et seq.*

2. In § 116.3, the definition of navigable waters is amended by adding three new sentences of concluding text at the end of the definition, as set forth below, and the definitions are placed in alphabetical order.

§ 116.3 Definitions.

* * * * *

Navigable waters do not include prior converted cropland, as defined by the National Food Security Act Manual, Second Edition, 180–V–NFSAM, Amendment 6, May, 1991, Soil Conservation Service. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the National Food Security Act Manual may be obtained from the U.S. Department of Agriculture, Soil Conservation Service, South Agriculture Building, room 0054, 14th and Independence Avenue, SW., Washington, DC or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

* * * * *

PART 117—DETERMINATION OF REPORTABLE QUANTITIES FOR HAZARDOUS SUBSTANCES

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. The definition of navigable waters, § 117.1(i), is amended by adding three new sentences of concluding text at the end of the definition to read as follows:

§ 117.1 Definitions.

* * * * *

Navigable waters do not include prior converted cropland, as defined by the National Food Security Act Manual, Second Edition, 180–V–NFSAM, Amendment 6, May, 1991, Soil Conservation Service. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. §552(a) and 1 CFR part 51. Copies of the National Food Security Act Manual may be obtained from the U.S. Department of Agriculture, Soil Conservation Service, South Agriculture Building, room 0054, 14th and Independence Avenue, SW., Washington, DC or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

* * * * *

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 122 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 122.2, definition of waters of the United States, is amended by adding three new sentences at the end of the definition to read as follows:

§ 122.2 Definitions.

* * * * *

Waters of the United States do not include prior converted cropland, as defined by the National Food Security Act Manual, Second Edition, 180–V–NFSAM, Amendment 6, May, 1991, Soil Conservation Service. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the National Food Security Act Manual may be obtained from the U.S. Department of Agriculture, Soil Conservation Service, South Agriculture Building, room 0054, 14th and Independence Avenue, SW., Washington, DC or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

* * * * *

PART 230—SECTION 404(b)(1) GUIDELINES FOR SPECIFICATION OF DISPOSAL SITES FOR DREDGED OR FILL MATERIAL

1. The authority citation for part 230 continues to read as follows:

Authority: 33 U.S.C. 1344(b) and 1361(a).

2. Section 230.3(s), definition of waters of the United States, is amended by adding three new sentences of concluding text at the end of the definition to read as follows:

§ 230.3 Definitions.

* * * * *

Waters of the United States do not include prior converted cropland, as defined by the National Food Security Act Manual, Second Edition, 180–V–NFSAM, Amendment 6, May, 1991, Soil Conservation Service. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the National Food Security Act Manual may be obtained from the U.S. Department of Agriculture, Soil Conservation Service, South Agriculture Building, room 0054, 14th and Independence Avenue, SW., Washington, DC or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

PART 232—404 PROGRAM DEFINITIONS; EXEMPT ACTIVITIES NOT REQUIRING 404 PERMITS

1. The authority citation for Part 232 continues to read as follows:

Authority: 33 U.S.C. 1344.

2. Section 232.2(e), definition of discharge of dredged material, is revised to read as follows:

§ 232.2 Definitions.

* * * * *

(e)(1) The term *discharge of dredged material* means any addition of dredged material into waters of the United States. The term includes, without limitation, the addition of dredged material to a specified discharge site located in waters of the United States and the runoff or overflow from a contained land or water disposal area. Discharges of pollutants into waters of the United States resulting from the onshore subsequent processing of dredged material that is extracted for any commercial use (other than fill) are not included within this term and are subject to section 402 of the Clean Water Act even though the extraction and deposit of such material may require a permit from the Corps or the State section 404 program. The term "discharge of dredged material" includes, without limitation, any addition or redeposit of dredged materials, including excavated materials, into waters of the United States which is incidental to any activity (except normal dredging operations as defined below), including mechanized landclearing, ditching, channelization, or other excavation which has or would have the effect of destroying or degrading any area of waters of the United States. The term does not include *de minimis* soil movement incidental to any activity which does not have or would not have the effect of destroying or degrading any area of waters of the United States. Moreover, the term does not include *de minimis*, incidental soil movement occurring during the normal dredging operations, defined as dredging to maintain, deepen, or extend navigation channels in the navigable waters of the United States, as defined in 33 CFR Part 329, with proper authorization from the Congress and/or the Corps. The term does not include plowing, cultivating, seeding and harvesting for the protection of food, fiber, and forest products (See § 323.4 for the definition of these terms).

(2) For purposes of paragraph (e)(1), mechanized landclearing, ditching, channelization, or other excavation activities in waters of the United States result in a discharge of dredged material. Further, where such activities occur in waters of the United States, the activity is presumed to result in the destruction or degradation of such waters unless the project proponent demonstrates to the satisfaction of the Corps, or EPA as appropriate, that the activity would not have such an effect in a particular case.

* * * * *

3. Section 232.2(f), definition of discharge of fill material, is revised to read as follows:

§ 232.2 Definitions.

* * * * *

(f)(1)The term "discharge of fill material" means the addition of fill material into waters of the United States. The term generally includes, without limitation, the following activities: placement of fill that is necessary for the construction of any structure in a water of the United States; the building of any structure or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants and subaqueous utility lines; and artificial reefs. The term does not include plowing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products (See Section 232.3 for the definition of these terms.)

(2) In addition, the placement of pilings in waters of the United States shall require a section 404 permit when such placement is used in a manner essentially equivalent to a discharge of fill material in physical effect or functional use and effect. In such cases, the placement of pilings in waters of the United States constitutes a discharge of fill material for purposes of Section 404. Examples includes, but are not limited to, the following activities in waters of the United States:

(i) *Physical effect of fill:* Projects that in effect replace an aquatic area or change the bottom elevation of a waterbody as a result of the placement of pilings that are so closely spaced that sedimentation rates are increased or the pilings themselves essentially replace the bottom will require a Section 404

permit. This circumstances would include pilings placed in waters of the United States for dams, dikes, or other structures utilizing densely spaced pilings, or as a foundation for large structures.

(ii) *Functional use and effect of fill*: Construction projects will require a Section 404 permit where pilings serve essentially the same functional use as a solid fill foundation, and where the project would result in essentially the same effects as fill (e.g., alter flow or circulation of the waters, bring the area into a new, non-aquatic use, or significantly alter or eliminate aquatic functions and values). Regulated activities include the placement of pilings to facilitate the construction of office and industrial developments, parking structures, restaurants, stores, hotels, multi-family housing projects, and similar structures in waters of the United States.

The term *discharge of fill material* does not include the placement of pilings in waters of the United States in circumstances involving linear projects such as bridges, elevated walkways, or powerline structures. Similarly, the term does not include the placement of pilings in waters of the United States in circumstances that involve structures that have been traditionally constructed on pilings; examples are piers, boathouses, wharves, marinas, lighthouses, and individual houses built on stilts solely to reduce the potential of flooding (e.g., beach houses where road access is on uplands, but the house may be located in a low area necessitating costruction on stilts). However, all pilings placed in the navigable waters of the United States (see 33 CFR part 329) require authorization under Section 10 of the Rivers and Harbors Act of 1899 (see 33 CFR part 322).

4. Section 232.2(q), definition of waters of the United States, is amended by adding three new sentences of concluding text at the end of the definition to read as follows:

§ 232.2 Definitions.

* * * * *

Waters of the United States do not include prior converted cropland, as defined by the National Food Security Act Manual, Second Edition, 180–V–NFSAM, Amendment 6, May, 1991, Soil Conservation Service. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the National Food Security Act Manual may be obtained from the U.S. Department of Agriculture, Soil Conservation Service, South Agriculture Building, room 0054, 14th and Independence Avenue, SW., Washington, DC or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

* * * * *

PART 401—EFFLUENT GUIDELINES AND STANDARDS

1. The authority citation for part 401 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 401.11(l), definition of navigable waters, is amended by adding three new sentences at the end of the definition to read as follows:

§ 401.11 General definitions.

* * * * *

* * * Navigable waters do not include prior converted cropland, as defined by the National Food Security Act Manual, Second Edition, 180–V–NFSAM, Amendment 6, May, 1991, Soil Conservation Service. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the National Food Security Act Manual may be obtained from the U.S. Department of Agriculture, Soil Conservation Service, South Agriculture Building, room 0054, 14th and Independence Avenue, SW., Washington, DC or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

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[FR Doc. 92–13720 Filed 6–15–92; 8:45 am]

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federal register

Tuesday,
June 16, 1992

Part III

Department of Education

Indian Vocational Education Program; Office of Vocational and Adult Education; Notice Inviting Applications for New Awards

DEPARTMENT OF EDUCATION

[CFDA No. 84.101]

Indian Vocational Education Program, Office of Vocational and Adult Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

The Secretary wishes to highlight, for potential applicants, that this program can help to further the purposes of AMERICA 2000, the President's education strategy to help America move itself toward the National Education Goals. Specifically, the program addresses Track III of the AMERICA 2000 strategy—Transforming America into "A Nation of Students"—and National Education Goal 5—ensuring that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Purpose of Program: To provide financial assistance to Indian tribes and certain schools funded by the Department of the Interior to plan, conduct, and administer programs, or portions of programs, that are authorized by and consistent with the Carl D. Perkins Vocational and Applied Technology Education Act.

Eligible Applicants: The following entities are eligible for an award under this program:

(a) A tribal organization of any Indian tribe that is eligible to contract with the Secretary of the Interior under the Indian Self-Determination and Education Assistance Act or under the Act of April 16, 1934.

(b) A Bureau-funded school offering a secondary program.

(c) Any tribal organization or Bureau-funded school described in paragraphs (a) or (b) above may apply individually or jointly as part of a consortium with one or more eligible tribal organizations or schools.

(i) A consortium shall enter into an agreement signed by all members of the consortium and designating one member of the consortium as the applicant and grantee.

(ii) The agreement must detail the activities each member of the consortium plans to perform, and must bind each member to every statement and assurance made in the application.

(iii) The applicant shall submit the agreement with its application.

Deadline for Transmittal of Applications: July 30, 1992.

Available Funds: $1,509,725.

Estimated Range of Awards: $45,000 to $595,000.

Estimated Average Size of Awards: $250,000.

Estimated Number of Awards: 6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR Part 82 (New Restrictions on Lobbying).

(7) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements For Drug-Free Workplace (Grants)).

(8) 34 CFR Part 86 (Drug-Free Schools and Campuses).

(b) The regulations governing the Indian Vocational Educational Program, as proposed to be codified in 34 CFR part 401.

It is the policy of the Department of Education not to solicit applications before the publication of final regulations. However, for the following reasons, in this case it is essential to solicit applications on the basis of the notice of proposed rulemaking (NPRM) for this program, as published in the **Federal Register** on October 11, 1991 (56 FR 51448). Solicitation of applications based upon the proposed regulations will allow applicants sufficient time in which to prepare and submit applications for the FY 1993 competition as well as permit them to implement their projects on a timely basis so as to meet fixed institutional schedules. In addition, solicitation of applications based on the NPRM should provide applicants that ultimately are not funded under this program with sufficient time in which to apply for funds under other Department programs for which they may be eligible to apply, as well as prevent funding gaps between projects that are currently funded and new projects for which applicants may be seeking funding under this competition.

Finally, the Secretary has not received any substantive comments on the proposed regulations and does not anticipate making any substantive changes to the final regulations. In any event, if substantive changes are made in the final regulations, applicants will be given an opportunity to revise and resubmit their applications.

Selection Criteria: The Secretary uses the following selection criteria contained in 34 CFR 401.21 of the proposed regulations to evaluate applications for new grants under this competition.

The proposed regulations at 34 CFR 401.20(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points.

The maximum score for each criterion is indicated in parentheses following each criterion. For this competition, the Secretary distributes the 15 points reserved in 34 CFR 401.20(b) as follows: Five additional points to the selection criterion in 34 CFR 401.21(b) (Need) for a possible total of 20 points. Five additional points to the selection criterion in 34 CFR 401.21(c) (Plan of Operation) for a possible total of 20 points. Five additional points to the selection criteria in 34 CFR 401.31(e) (Budget and Cost Effectiveness) for a possible total of 10 points.

(a) *Program factors.* (20 points) The Secretary reviews each application to determine the extent to which it—

(1) Proposes measurable goals for student enrollment, completion, and placement that are realistic in terms of stated needs, resources, and job opportunities in each occupation for which training is to be provided;

(2) Proposes goals that take into consideration any related goals or standards developed for Job Opportunities and Basic Skills (JOBS) programs (42 U.S.C. 681 *et seq.*) and Job Training Partnership Act (JTPA) (29 U.S.C. 1501 *et seq.*) training programs operating in the area, and, where appropriate, any goals set by the State board for vocational education for the occupation and geographic area;

(3) Describes, for each occupation for which training is to be provided, how successful program completion will be determined in terms of academic and

vocational competencies demonstrated by enrollees prior to completion and any academic or work credentials acquired by enrollees upon completion;

(4) Demonstrates the active commitment in the project's planning and operation by advisory committees, tribal planning offices, the JOBS program office, the JTPA program director, and potential employers such as tribal enterprises, private enterprises (on or off reservation), and other organizations;

(5) Is targeted to individuals with inadequate skills to assist those individuals in obtaining new employment; and

(6) Includes a thorough description of the approach to be used including some or all of the following components:

(i) Methods of participant selection.

(ii) Assessment and feedback of participant progress.

(iii) Coordination of vocational instruction, academic instruction, and support services such as counseling, transportation, and child care.

(iv) Curriculum and, if appropriate, approaches for providing on-the-job training experience.

(b) *Need.* (20 points) The Secretary reviews each application to determine the extent to which the project addresses specific needs, including—

(1) The job market and related needs (such as educational level) of the target population;

(2) Characteristics of that population, including an estimate of those to be served by the project;

(3) How the project will meet the needs of the target population; and

(4) A description of any ongoing and planned activities relative to those needs, including, if appropriate, how the State plan developed under 34 CFR 403.30–403.34 is designed to meet those needs.

(c) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The establishment of objectives that are clearly related to project goals and activities and are measurable with respect to anticipated enrollments, completions, and placements;

(2) A management plan that describes the chain of command, how staff will be managed, how coordination among staff will be accomplished, and timelines for each activity; and

(3) The way the applicant intends to use its resources and personnel to achieve each objective.

(d) *Key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used on the project;

(iii) The time, including justification for the time that each one of the key personnel, including the project director, will commit to the project; and

(iv) Subject to the Indian preference provisions of the Indian Self-Determination Act (25 U.S.C. 450 *et seq.*) that apply to grants and contracts to tribal organizations, how the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disabling condition.

(2) To determine personnel qualifications, the Secretary considers—

(i) The experience and training of key personnel in project management and in fields particularly related to the objectives of the project; and

(ii) Any other qualifications of key personnel that pertain to the quality of the project.

(e) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project activities;

(2) Costs are reasonable in relation to the objectives of the project and the number of participants to be served; and

(3) The budget narrative justifies the expenditures.

(f) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which—

(1) The plan identifies, at a minimum, types of data to be collected and reported with respect to the academic and vocational competencies demonstrated by participants and the number and kind of academic and work credentials acquired by participants who complete the training;

(2) The plan identifies, at a minimum, types of data to be collected and reported with respect to the achievement of project goals for the enrollment, completion, and placement of participants. The data must be broken down by sex and by occupation for which training was provided;

(3) The methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable; and

(4) The methods of evaluation provide periodic data that can be used by the project for ongoing program improvement.

(g) *Employment opportunities.* (10 points) The Secretary reviews each application to determine the quality of the plan for job placement of participants who complete training under this program, including—

(1) The expected employment opportunities (including any military specialties) and any additional educational or training opportunities that are related to the participants' training;

(2) Information and documentation concerning potential employers' commitment to hire participants who complete the training; and

(3) An estimate of the percentage of trainees expected to be employed (including self-employed individuals) in the field for which they were trained following completion of the training.

Special Consideration: In accordance with the authority provided in section 103(b)(1)(C) of the Act and with § 401.20(e) of the proposed regulations, in addition to the 100 points to be awarded based on the selection crieria in § 401.21 of the proposed regulations, the Secretary awards:

(a) Up to five points to applications that propose exemplary approaches that involve, coordinate with, or encourage tribal economic development plans; and

(b) Five points to applications from tribally controlled community colleges that—

(1) Are accredited or are candidates for accreditation by a nationally recognized accredidation organization as an institution of postsecondary vocational education; or

(2) Operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational education programs.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and six copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Services, Attention: (CFDA #84.101), Washington, D.C. 20202–4725 or

(2) Hand deliver the original and six copies of the application by 4:30 p.m. (Washington, D.C. time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.101, Room #3633, Regional

Office Building #3, 7th and D Street SW, Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes

(1) The U.S. Postal Service does not uniformly provide a date postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 732-2495.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms: The Appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and aditional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4/88) and instructions.

Part II: Budget Information.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification regarding Debarment, Lobbying, Suspension, and Other Responsibility Matters: Primary Covered Transactions (ED Form 80-0013) and instructions.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80-0014) and instructions. (NOTE: ED Form 80-0014 is intended for the use of grantees and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL-A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

For Further Information Contact: Harvey G. Thiel or Purnell Swett, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue SW., room 4512, Mary E. Switzer Building, Washington, DC 20202-7242. Telephone (202) 732-2380 or 732-2379. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 2313.

Dated: June 10, 1992.

Betsy Brand,

Assistant Secretary, Office of Vocational and Adult Education.

BILLING CODE 4000-01-M

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

8. TYPE OF APPLICATION:
☒ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify): _____

9. NAME OF FEDERAL AGENCY:
U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 1 0 1
TITLE: Indian Vocational Education Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - —"New" means a new assistance award.
   - —"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - —"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II - BUDGET INFORMATION

SECTION AA - Budget Summary by Categories (First Budget Period)

	A*	B**
1. Personnel		
2. Fringe Benefits (Rate %)		
3. Travel		
4. Equipment		
5. Supplies		
6. Contractual		
7. Other		
8. Total, Direct Cost (Lines 1 through 7)		
9. Indirect Cost (Rate %)		
10. Training Costs/Stipends		
11. TOTAL, Federal Funds Requested (Lines 8 through 10)		

SECTION BB - Other Available Resources

	A*	B**
1. Federal		
2. State and Local		
3. TOTAL		

*NOTE: Fill in only Column A for one year budget periods. Continuation amounts for future years go in Section C.

**NOTE: Fill in columns A and B when full-funded projects are longer than 12 months.

SECTION C - Budget Estimates (Federal Funds Only) For Balance of Project

Budget Periods			
Second	Third	Fourth	FIfth

BILLING CODE 4000-01-C

Instructions for Part II—Budget Information

Section A—Budget Summary by Categories

1. *Personnel:* Show salaries to be paid to project personnel.

2. *Fringe Benefits:* Indicate the rate and amount of fringe benefits.

3. *Travel:* Indicate the amount requested for both inter- and intra-State travel of project staff. Include funds for at least one trip for two people to attend a project director's meeting in Washington, D.C.

4. *Equipment:* Indicate the cost of non-expandable personal property that has a useful life of more than one year and a cost of $300 or more per unit ($5,000 or more if State, Local, or Tribal Government).

5. *Supplies:* Include the cost of consumable supplies and materials to be used during the project.

6. *Contractual:* Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment; and (2) sub-contracts.

7. *Other:* Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. *Total, Direct Cost:* Show the total for lines 1 through 7.

9. *Indirect Costs:* Indicate the rate and amount of indirect costs. NOTE: For training grants, the indirect cost rate cannot exceed 8%.

10. *Training/Stipend Cost:* (if allowable)

11. *TOTAL, Federal Funds Requested:* Show total for lines 8 through 10.

Section B—Other Available Resources

List the total resources available from other Federal, State and Local sources that will be used to achieve the institution's goals and objectives.

Section C—Budget Estimates (Federal funds Only) for Balance of Project

If the project period exceeds 12 months, include cost estimates for the continuation budget periods, as appropriate.

Instructions for Part III—Budget Narrative

The itemized budget and budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Part III—Application Narrative

Instructions for Part III—Application Narrative

All applicants are urged to submit application narratives that are concise and clearly written. Before preparing the application narrative, applicants should read and become familiar with the law and the regulations covering the program to which they are applying.

Applicants should use the selection criteria for a program as an outline for preparing their application narrative, addressing the selection criteria in the order the criteria are listed. Applicants are encouraged to provide a table of contents and to number the pages of the application narrative. The application narrative should not exceed 25 double-space typed pages, (on one side only). While supporting documentation (*e.g.*, letters of support, footnotes, resumes, etc.) may be submitted with applications, applicants are advised that letters of support sent separately from the formal application package are not considered in the review by the technical review panels. In addition, applications are advised that:

(a) Under 34 CFR 75.112 of EDGAR:

(1) An application must propose a project period for the project.

(2) An application must describe when, in each budget period of the project, the application plans to meet each objective of the project.

(b) Under 34 CFR 75.117 of EDGAR, an applicant that proposes a multi-year project shall include in its application—

(1) Information that shows why a multi-year project is needed;

(2) A budget for the first budget period of the project; and

(3) An estimate of the Federal funds needed for each budget period of the project after the first budget period.

(c) Under 34 CFR 75.217(a) of EDGAR, the Secretary ranks applications for funding consideration and selects applications on the basis of the authorizing statute, the selection criteria, and other requirements contained in the proposed regulations.

(d) A technical review panel used by the Secretary to review application evaluates each application solely on the basis of the established selection criteria. Letters of support contained in the application will strengthen the application only insofar as they contain commitments that pertain to the established selection criteria, such as commitment of resources and placement of successful completers.

Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden for this collection of information. Public reporting burden for this collection of information is estimated to average 90 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Paperwork Reduction Project, OMB control number: 1830–00.13, Office of Management and Budget, Washington, DC 20503. (Information collection approved under OMB control number 1830–0013. Expiration date 6/30/92.)

BILLING CODE 4000-01-M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 --

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted–

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

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INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

Appendix A

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Our new policy calls for an original and six copies to be submitted. The binding of applications is optional.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, however, a properly prepared application must meet the specifications of the competition to which it is submitted.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand that this previous contact is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 4 to 5 months of the application closing date, depending on the number of applications received and the number of competitions with closing dates at about the same time.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the review with anyone.

Q. Will my application be returned if I am not funded?

A. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed. Because we may request the project director of funded projects to attend an annual project directors meeting, you may also wish to include a trip or two to Washington, D.C., in the travel budget. Travel to conferences is sometimes allowed when it is for purposes of dissemination.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require classification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. How do I provide an assurance?

A. Except for SF–424, "Assurances—Non-Construction Programs," simply state in writing that you are meeting a proscribed requirement.

Q. Where can copies of the **Federal Register**, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238. When requesting copies of regulations or statutes, it is helpful to use the specific name, public law number, or part number. The material referenced in this notice should be referred to as follows:

(1) The Carl D. Perkins Vocational and Applied Technology Education Act, as amended by Public Law 101–392, 20 U.S.C. 2301 *et seq.*, 104 Stat. 753 (1990).

(2) The Education Department General Administrative Regulations at 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86.

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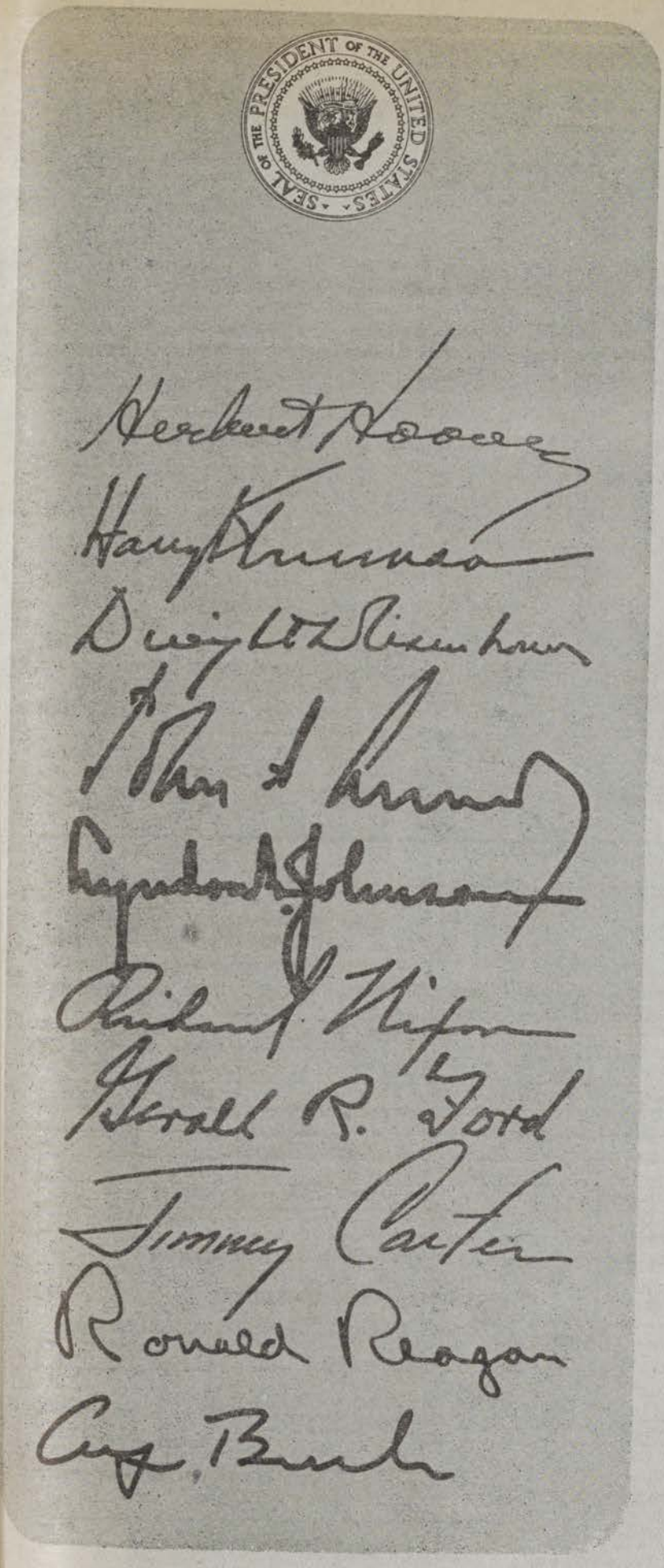

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